

# CECIL COUNTY ZONING ORDINANCE

**Adopted:** April 19, 2011

**Effective:** May 1, 2011

	<u>Section</u>	<u>Amendment Type</u>
<i>Amended:</i>		
<i>January 3, 2012</i>	<i>161</i>	<i>Clinics</i>
<i>February 1, 2012</i>	<i>215</i>	<i>Fee-in-Lieu</i>
<i>August 21, 2012</i>	<i>12, 246.8</i>	<i>Transfer of Dev. Rights</i>
<i>December 3, 2012</i>	<i>Numerous</i>	<i>Change from Commissioner to Charter form of government</i>
<i>May 21, 2013</i>	<i>12 &amp; 79</i>	<i>Home occupations</i>
<i>June 19, 2013</i>	<i>16 &amp; 224-233</i>	<i>Floodplains</i>
<i>July 18, 2013</i>	<i>12, 42, 247</i>	<i>Brownfield Redev. District</i>
<i>May 5, 2015</i>	<i>225, 228, 232, 233</i>	<i>Floodplains</i>
<i>February 16, 2016</i>	<i>144</i>	<i>Sawmills</i>
<i>September 20, 2016</i>	<i>96</i>	<i>Theater – Drive-In</i>
<i>October 19, 2016</i>	<i>323.1</i>	<i>Initiation of Amendments</i>
<i>February 7, 2017</i>	<i>115</i>	<i>Communications Towers</i>
<i>December 19, 2017</i>	<i>Numerous</i>	<i>Creation of Dept. of Land Use &amp; Development Services</i>
<i>March 27, 2018</i>	<i>12, 58B</i>	<i>Concentrated Animal Feeding Operations</i>
<i>September 4, 2018</i>	<i>88</i>	<i>Schools, Private</i>
<i>September 4, 2018</i>	<i>156</i>	<i>Power Generating Facilities</i>

## *Board of County Commissioners of Cecil County*

James T. Mullin, President  
Diana Broomell, Vice-President  
Michael W. Dunn, Commissioner  
Robert J. Hodge, Commissioner  
Tari Moore, Commissioner

**CERTIFICATION OF REGULATIONS**

WHEREAS, Article 66B of the Annotated Code of Maryland empowers Cecil County to adopt a Zoning Ordinance, Zoning Maps, and Subdivision regulations; and

WHEREAS, Article 66B of the Annotated Code of Maryland establishes requirements relative to the adoption of said regulations and maps; and

WHEREAS, public hearings were held on 2, 9, and 16 February 2011 by the Planning Commission in regard to said regulations and maps; and

WHEREAS, the Planning Commission recommended adoption of said regulations and maps to the Board of County Commissioners; and

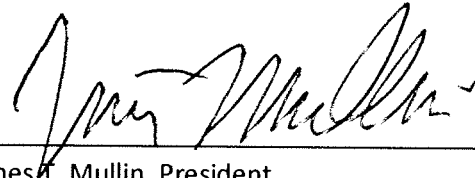
WHEREAS, public hearings were held by the Board of County Commissioners on 2, 9, and 16 March 2011 and 5 April 2011 in regard to said regulations and maps; and

WHEREAS, all requirements of Article 66B of the Annotated Code of Maryland have been met in regard to the adoption of the Zoning Ordinance, Zoning Maps, and Subdivision Regulations;

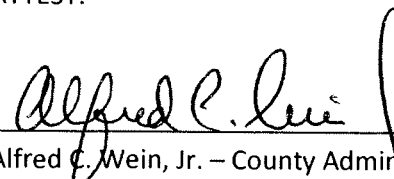
NOW, THEREFORE, BE IT CERTIFIED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY, STATE OF MARYLAND, that the Zoning Ordinance is adopted and will become effective on 1 May 2011.


DATE:

4/27/11

  
\_\_\_\_\_  
James T. Mullin, President

ATTEST:

  
\_\_\_\_\_  
Alfred C. Wein, Jr. – County Administrator

  
\_\_\_\_\_  
Diana Broomell, Vice President

  
\_\_\_\_\_  
Michael W. Dunn, Commissioner

  
\_\_\_\_\_  
Robert T. Hodge, Commissioner

  
\_\_\_\_\_  
Tari Moore, Commissioner

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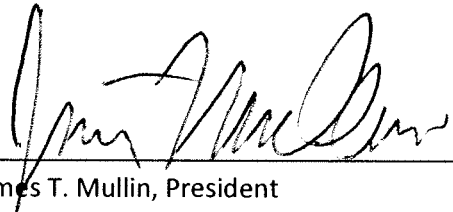
WHEREAS, public hearings were held by the Board of County Commissioners on 2, 9, and 16 March 2011 and 5 April 2011 in regard to said regulations and maps; and

WHEREAS, all requirements of Article 66B of the Annotated Code of Maryland have been met in regard to the adoption of the Zoning Ordinance, Zoning Maps, and Subdivision Regulations;

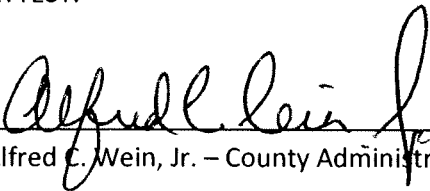
NOW, THEREFORE, BE IT CERTIFIED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY, STATE OF MARYLAND, that the Zoning Maps are adopted and will become effective on 1 May 2011.


DATE:

4/22/11

  
James T. Mullin, President

ATTEST:

  
Alfred C. Wein, Jr. – County Administrator

  
Diana Broomell, Vice President

  
Michael W. Dunn, Commissioner

Opposed  
Robert T. Hodge, Commissioner

Opposed  
Tari Moore, Commissioner

# CECIL COUNTY ZONING ORDINANCE

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**ARTICLE I      TITLE & PURPOSE**

**Section 1.      Short Title**

This Ordinance shall be known, cited, and referred to as the Cecil County Zoning Ordinance.

**Section 2.      Authority**

This Ordinance is enacted under the authority granted by the General Assembly of Maryland, as provided in Article 25A & 66B, Annotated Code of Maryland, as amended.

**Section 3.      Intent/Authority**

1. This Ordinance is intended to promote the orderly development of Cecil County, Maryland, in accordance with the Cecil County Comprehensive Plan, as amended or any of the component parts thereof and in compliance with Article 25A & 66B, Code of Public General Laws of Maryland, and Natural Resources Article 8-1808 (d), as amended.
2. The basic objective of this ordinance is to provide the means to implement the Comprehensive Plan of Cecil County, as amended, and its purpose shall be interpreted as including the following:
  - a. To make the most appropriate and balanced use of land throughout the County to the extent that both economic development and the conservation of natural resources and the environment is encouraged.
  - b. To preserve the character and appearance of neighborhoods and to maintain property values generally throughout the County.
  - c. To preserve the agricultural economy of the County by discouraging conversion of cropland, pastureland, and woodlands to urban uses, and to maintain farming activities without interference from other land uses.
  - d. To conserve natural resources.
  - e. To secure safety from fire, panic, flood, and other dangers.
  - f. To minimize traffic congestion on streets and roads, and to provide adequate off-street parking.
  - g. To provide adequate light, air, and open space, to insure adequate recreation opportunities, and to provide convenience of access to property.
  - h. To concentrate development in areas suitable for growth as designated in the Cecil County Comprehensive Plan, as amended.
  - i. To create and preserve an environment conducive to healthful and safe living conditions.
  - j. To make adequate provision for transportation, water and sewer, schools, police and fire protection, and other public facilities, and to economize on the costs of such public

facilities by a careful phasing of development with efficient provision of public improvements.

- k.** To regulate the intensity of land use; to fix reasonable standards to which structures and uses shall conform; and to prohibit uses and structures incompatible with the character of development or the permitted uses within specified zones.
  - l.** To protect sensitive areas, to control erosion of land and to protect the waters in and adjacent to County from excessive sedimentation and from pollution by pesticides, fertilizers, and liquid or solid effluent.
  - m.** To define the powers and duties of administrative officials and bodies in the administration and enforcement of this Ordinance, to establish penalties for violation and to provide for amendments.
  - n.** To protect environmentally sensitive areas from unnecessary disturbance.
- 3.** It is also the objective of this Ordinance to implement the “Visions” contained in the Maryland Smart, Green and Growing legislation, namely:
- a.** Quality of life sustainability: A high quality of life is achieved through universal stewardship of the land, water and air, resulting in sustainable communities and protection of the environment;
  - b.** Public participation: Citizens are active partners in the planning and implementation of community initiatives and are sensitive to the responsibilities in achieving community goals;
  - c.** Growth Areas: Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers;
  - d.** Community design: Compact, mixed use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural and archeological resources;
  - e.** Infrastructure: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sensitive manner;
  - f.** Transportation: A well maintained, multimodal transportation system facilitates the safe, convenient, and efficient movement of people, goods and services within and between population and business centers;
  - g.** Housing: A range of housing densities, types and sizes provides residential options for citizens of all ages and incomes;
  - h.** Economic development: Economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State’s natural resources, public services, and public facilities , are encouraged;

- i. Environmental protection: Land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems and living resources;
  - j. Resource conservation: Waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved;
  - k. Stewardship: Government, business entities and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection; and
  - l. Implementation: Strategies, policies, programs and funding for growth and development, resource conservation, infrastructure and transportation are integrated across local, regional, state and interstate level to achieve these visions.
4. The regulations and provisions contained in this Zoning Ordinance were adopted on April 19, 2011 and became effective on May 1, 2011.

#### **Section 4. Right to Farm Ordinance**

It is the intent of this Ordinance to preserve and encourage the business of agriculture and the agricultural economy of the County and to maintain the farming activities without interference from other land uses. In accordance with these intentions, the following provisions for the protection of agricultural uses will apply:

1. Agricultural use of land is permitted.
2. Operation, at any time, of machinery used in farm production or the primary processing of agricultural products is permitted.
3. Customary agricultural activities and operations in accordance with Best Management Practices as established by the Cecil Soil Conservation District and the University of Maryland Cooperative Extension Service, which do not cause bodily injury or endanger human health, are permitted, including activities which may produce normal agriculturally related noise and odors.
4. If an agricultural operation is in compliance with applicable federal, state and local health, environmental, zoning, and permit requirements relating to any nuisance claim and is not conducted in a negligent manner:
  - a. The operation, including any noise, odors, dust, or insects from the operation may not be deemed to be a public or private nuisance; and
  - b. A private action may not be sustained on the grounds that the operation interferes or has interfered with the use and enjoyment of other property, whether public or private. Notwithstanding any other provision of this section, no action alleging an agricultural operation has interfered with the reasonable use or enjoyment of real property or personal well being shall be maintained if the plaintiff has not sought arbitration through the Agriculture Reconciliation Committee.

- c. This section does not create, and may not be construed to as affecting, a new cause of action or substantive legal right against a person who is engaged in an agricultural operation.
- d. This section does not affect, and may be construed as affecting, any defenses available at common law to a defendant who is engaged in an agricultural operation and is subject to an action for nuisance.
- e. Notice shall be provided on the plat of all subdivisions that an agricultural operation is being conducted on a contiguous property and said agricultural operation is protected from nuisance claims provided the conditions of this section are being complied with.
- f. Upon execution of a sales contract, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this right to farm ordinance.
- g. The establishment of buffer zones has been created in this Ordinance to protect the abutting agricultural operations from the impact of residential subdivisions hereafter approved.
- h. Resolution of disputes and procedures for complaints
  - (1) A person may complain to the Cecil County Department of Environmental Health to declare that a nuisance which affects public health exists.
  - (2) The health officer shall investigate all complaints received against an agricultural operation. The health officer shall consult with the Cecil Soil Conservation District and the University of Maryland Cooperative Extension Service in determining whether the agricultural operation is being conducted in accordance with this section.
  - (3) After the health officer has concluded his investigation, he will report his findings to the Agricultural Reconciliation Committee to aid in their determination as to the existence of a nuisance.
  - (4) Controversy arising in regard to the interference in the use and enjoyment of property from an agricultural operation shall be taken to the Agricultural Reconciliation Committee.
  - (5) The Agricultural Reconciliation Committee shall arbitrate or mediate disputes involving agricultural operations and issue opinions on whether such agricultural operations are conducted in a manner consistent with this section.
  - (6) The Agricultural Reconciliation Committee shall consist of five (5) members appointed by County Executive. Two (2) members shall be from the agricultural community, one (1) member shall be from the Cecil County Board of Realtors, one (1) member shall be from a homeowner's association, and one (1) member shall be an at large citizen of Cecil County. The County Executive shall also appoint an alternate member to attend in the absence of a regular member.
  - (7) Decisions of the Agricultural Reconciliation Committee may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure.

**5. Real Estate Transfer Disclosure Statement**

This disclosure statement concerns real property located in Cecil County, Maryland described as:

This statement is a disclosure of the existence of the Cecil County Right to Farm Ordinance in compliance with Article I, Section 4, of the Cecil County Zoning Ordinance.

**Buyer's Information**

You are hereby advised that you are purchasing a parcel of ground in a rural area. Under Cecil County law, agricultural use of land is permitted. Agricultural use often includes the use of heavy farm equipment that may occasionally operate at night or in the early morning hours, as well as during the daytime, and may occasionally be on local roads causing a slowing of traffic. An agricultural operation may also involve other noises, dust, crop spraying, and offensive odors from animal waste or manures. In addition, agricultural uses sometimes require the spraying of pesticides or herbicides. Certain offensive weeds and insects are sometimes found in or around agricultural operations.

I have read this disclosure statement and understand that Cecil County has determined that inconveniences or discomforts associated with agricultural operations shall not be considered to be an interference with the reasonable use and enjoyment of land if such operations are conducted in accordance with generally accepted Best Management Practices.

_____	_____
Date	Purchaser
_____	_____
Subdivision	Lot Number

**Section 5. Jurisdiction**

This Ordinance shall be effective throughout the County's planning jurisdiction. The County's planning jurisdiction comprises all of the unincorporated area of Cecil County, Maryland except those federal lands exempted by public law.

**Section 6. Interpretation**

1. The regulations set by this Ordinance within each district shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, prosperity, environment, natural resources, and general welfare, and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.
2. It is not intended by this Zoning Ordinance to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, Ordinance or resolution, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises or with any private restrictions placed upon the property by covenant, deed, or recorded plat. However, where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, Ordinance, or resolution, or by such rules, regulations, or permits, or by such private restrictions, the provisions of this Ordinance shall control.
3. Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations are in conflict with other local Ordinances, regulations, or laws, the more restrictive Ordinance, regulation, law plat, or plan shall govern and shall be enforced by appropriate local agencies. When subdivisions and development plans, approved by the Director of Land Use and Development Services, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the local permit official. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Director of Land Use and Development Services and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the permit official. Conditions imposed by the Director of Land Use and Development Services and so noted on the record subdivision plat shall be enforced under this ordinance and any violation of such conditions shall be considered a violation of this ordinance.
4. Regardless of any provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any State or federal safety, pollution control or environmental protection law or regulation.
5. Nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the County prior to the date of adoption of this Ordinance or amendment thereto, provided the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within one (1) year from the date of issuance of the certificate or permit. "Exercised", as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have

been executed, or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.

**Section 7. Severability**

It is hereby declared to be the intention of the Cecil County Government that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

**Section 8. No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions**

1. Subject to Article XV of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
2. For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

**Section 9. Fees**

Fees established in accordance with Cecil County procedures shall be paid upon submission of a signed application or notice of appeal, unless otherwise determined by the Zoning Administrator.

**Section 10. Reserved**

**Section 11. Reserved**



## ARTICLE II

## BASIC DEFINITIONS AND INTERPRETATIONS

### Part I Definitions

#### Section 12. Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly defined by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance.

To amplify and clarify all provisions of this ordinance, the following rules shall apply:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The words "used" or "occupied" include the words "designed", or "arranged to be used or occupied".
3. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
4. The word "shall" is mandatory and not discretionary.
5. The word "may" is permissive.
6. The word "lot" shall include the words "piece", "parcel" and "plots"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for" or "occupied for".
7. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the "integral foot" next above shall be taken.

*Abandoned Vehicle.* Scrap or discarded vehicles, including unlicensed, unregistered, wrecked, abandoned, scrapped, unused, inoperable or dismantled, motor vehicles or motor vehicle parts.

*Abutting.* Having property lines in common; e.g., two lots are abutting if they share a common property line.

*Accessory Structure.* A detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, e.g., a shed or detached garage.

*Accessory Use.* A use which is clearly incidental and subordinate to a principal use of a structure and which is on the same lot or on or on a contiguous lot under the same ownership.

*Activity.* Any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area, or out doors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

*Adjacent.* Having property lines directly across a road or right of way abutting on another.

*Administrator, Zoning.* The administrative officer or his agent responsible for the administration and enforcement of this Ordinance.

*Adult Bookstore/Adult Entertainment Center.* An establishment the principal use of which is to offer for sale or viewing books, related paraphernalia, magazines, printed material, films, tapes, CDs, DVDs, peep shows and live acts which depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined below) or an establishment with a segment or section devoted to the sale and display of such material.

Specified Sexual Activities are defined as:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified Anatomical Areas are defined as:

- a. Less than a completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

*Afforestation.* The establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas that are not presently in forest cover.

*Agricultural Product Sales.* The retail and wholesale sale of products essential to agricultural and aquaculture operations, including feed and grain, fertilizer, plants and seeds, larvae, turf, trees and shrubs, and field crops. Agricultural product sales shall not include equipment sales.

*Agriculture.* Agriculture, including horticultural, chemical, or general farming, cultivation of field crops, orchards, groves, greenhouses, or nurseries for growing or propagation of plants, turf, trees, and shrubs, and in general all uses commonly classed as agricultural, and including use of heavy cultivating machinery, spray planes or irrigating machinery, dairy farming, keeping or raising for sale of large or small animals, including structures for processing and sale of products raised on the premises.

*Airport.* An area of land, installation or facility from which aircraft may take off or land, discharge or receive cargo or passengers, are repaired, take on fuel, are stored, including hangars, terminal or accessory activities.

*Alteration.* A physical change in a building, structure or land. An alteration includes an addition, projection into yards, or change from one type of use to another.

*Alley.* A right of way that provides secondary service access for vehicles to the side or rear of abutting properties.

*Amend or amendments.* Any change, addition, or modification to the provisions of this ordinance, or to the official zoning map, which is adopted by the County Council.

*Amusement park.* A commercially operated park with various devices for entertainment.

*Anadromous fish.* Fish that travel upstream from their primary habitat in the ocean to fresh water in order to spawn.

*Animal hospital.* A building or premises for the medical or surgical treatment of domestic animals or pets, including veterinary hospitals.

*Animal husbandry.* The raising, boarding, and/or sale of domestic animals other than dogs or cats.

*Antenna.* Equipment designed to transmit or receive electronic signals.

*Apartment.* A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by one or more individuals.

*Aquaculture.* The farming or cultivating of finfish, shellfish, or other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments. Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to, seed or larvae development and growout facilities, fishpens, shellfish rafts, racks and longlines, seaweed floats, and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

*Auction house.* Establishment for the public sale of property to the highest bidder.

*Base flood.* The 100 year frequency flood event as indicated on the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this Ordinance.

*Bed and breakfast home.* A building that contains a dwelling unit and guest rooms where the guests receive a room and one meal per day. Bed and breakfast home means a single family dwelling with an owner and or manager on site that may provide food beverage service (both alcoholic and non-

alcoholic) for the guests and their guests only. Bed and breakfast homes may host events such as weddings, small business meetings and conferences.

*Best Management Practices (BMP).* Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxic substances, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

*Bicycle storage, Class I* – a locker, enclosed structure, or supervised area within a building providing for long term bicycle protection from theft, vandalism, and weather conditions.

*Bicycle storage, Class II* – a stand or other device constructed so as to enable the user to secure a bicycle by locking the frame and one wheel of each bicycle parked therein. Class II bicycle storage shall support bicycles in stable, upright positions and must be easily useable with both U-locks and cable locks.

*Bicycle storage, Class III* – a rack constructed of steel pipe or tubing that is securely anchored to an immovable level surface. The rack design shall provide stable support for a bicycle locked against it by allowing at least two points of contact for a typical bicycle frame.

*Block.* The property abutting one side of a street and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right of way, unsubdivided acreage, river, or live stream, or between any of the foregoing and any other barrier to the continuity of development.

*Boarding house.* A residential use consisting of at least one dwelling unit together with more than two rooms that are rented or are designed or intended to be rented, but, individually or collectively, do not constitute separate dwelling units. A boarding house is distinguished from a bed and breakfast home in that the former is designed to be occupied by longer term residents (at least month to month tenants) as opposed to overnight or weekly guests.

*Board of Appeals.* A Board appointed by the County Executive which is authorized to grant special exceptions and variances to this Ordinance, and to hear certain appeals from administrative decisions.

*Boat, abandoned.* Any vessel that does not have a valid Maryland use sticker displayed on or about the forward half of the vessel and does not have a valid Maryland certificate number displayed that has remained without permission for more than thirty (30) days on public property, or any vessel that has remained outside a building for more than one hundred eighty (180) days on private property. Boats displaying a valid number issued by the federal government or another state shall

not be considered abandoned. Boats being actively restored, rehabilitated, and or built shall not be considered abandoned.

*Brownfield.* Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

*Buffer.* A naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from manmade disturbances. In the Chesapeake Bay Critical Area, the minimum buffer is a continuous area located immediately landward of tidal waters (measured from the mean high water line), tributary streams in the Critical Area, and tidal wetlands with a minimum depth of one hundred ten (110) feet. The buffer shall be extended beyond the minimum depth to include certain sensitive areas as per requirements established in the Zoning Ordinance.

For purposes of CAFOs, buffer is defined as a management area closest to a sensitive environmental site (e.g., wetland, water body, etc.) in which human activities are prohibited or limited in order to minimize the negative impacts from adjacent land uses (like erosion, filter runoff, pollutants, disturbances of wildlife) affecting the sensitive environmental site.

*Buffer Management Plan.* A plan designed and intended to describe methods and means used to protect, manipulate and utilize the buffer which provides multiple benefits.

*Buffer Modification Area.* Those areas of the County otherwise within the Chesapeake Bay Critical Area Buffer described herein that are largely or totally developed or that include undeveloped lots of record in single ownership that are 200 feet deep or less, excluding tidal wetlands, the development of which is grandfathered under provisions of the Cecil County Critical Area Program and Zoning Ordinance.

*Bufferyard.* A unit of land, together with a specified type and amount of planting thereon, and any structures, which may be required between land uses to eliminate or minimize conflicts between them.

*Building.* Any structure, temporary or permanent, having a roof and designed for shelter or enclosure of any person, animal, or property of any kind. Excluded are storage tanks, outdoor processing or testing equipment, and other structures as determined by the Zoning Administrator.

*Building, Accessory.* A minor building that is located on the same lot as a principal building and is used incidentally to a principal building or houses an accessory use.

*Building Coverage.* The amount of land covered or permitted to be covered by a building or structure measured in terms of percentage of the lot, tract, or parcel.

*Building Envelope.* The area formed by the building setback lines of a lot, within which any buildings must be located unless otherwise permitted by this Ordinance.

*Building, floor Area.* The total number of square feet area in a building, excluding basements, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot.

*Building, main.* The principal structures housing the principal use on the lot.

*Building Permit.* A permit issued by the Division of Permits and Inspections that authorizes the recipient to construct a specified structure or structures.

*Building, Principal.* The primary building on a lot or a building that houses a principal use.

*Building Setback Line.* A line drawn parallel to a property or boundary line at a distance equal to the minimum depth of the required yard for the district in which the property is located.

*Business Service.* A business that provides services primarily to other businesses as opposed to the general public.

*Bus Storage.* A facility where two (2) or more buses are stored, parked, or serviced, and which may include dispatching.

*CAFOs.* An animal feeding operation, a lot or facility (other than an aquatic animal production facility) where (1) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period; (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. A CAFOS is an AFO that is a medium or large AFO (for poultry at least 37,500 birds per flock) that discharges or proposes to discharge pollutants including, but not limited to, manure, poultry litter, or process wastewater to surface waters of the state.

*Campground.* Any area or tract of land owned by a single entity, or any area or tract of land subdivided as a campground prior to 1980 whereby units could be transferred to various owners to be used as a campground, on which accommodations for temporary and not year round occupancy are located or may be placed, including cabins, tents, recreational vehicles, and campers which are primarily used for recreational purposes and retains an open air or natural character.

*Canopy.* A roof-like structure of a permanent nature which may be free-standing or projected from a wall of a building or its supports.

*Cemetery.* A parcel of land used for burials or graves, burial plots, mausoleums, vaults, or columbariums, subject to the approval of the Maryland Department of the Environment.

*Circulation Area.* That portion of a parking lot used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

*Clinic.* A place for the treatment of outpatients by three (3) or more health professionals in group practice. Health professionals include doctors, nurses, and counselors.

*Commercial.* A type of activity where goods and services are sold or traded with the expectation of profit or gain.

*Commercial Retail.* An activity or use in which items, goods, or products are offered directly to the public for compensation.

*Commercial Service.* An establishment in which individuals or a business renders an activity to suit the needs of the public for compensation.

*Commission.* The Cecil County Planning Commission.

*Common Open Space.* A parcel of land or an area of water, or combination thereof within a designated tract, such as a subdivision, which is designated and intended for the use of all lot owners and residents of the development tract.

*Communication Tower.* A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structure.

*Community Facilities.* A public, private, or community water supply and distribution system and/or sewerage disposal system serving three (3) or more dwelling units.

*Community Piers.* Boat docking facilities associated with subdivisions and other similar residential areas, condominiums, and apartments. Private piers are excluded from this definition.

*Community Sewage System.* A sewage facility which serves three (3) or more individual lot, dwelling units, businesses, commercial or industrial establishments, or any combination thereof and which is owned and maintained by an entity other than the County or a municipality including any system for the collection, transportation, and disposal of a sewage or industrial wastes of a liquid nature, including various devices for the treatment of such sewage and industrial wastes. Community sewerage systems include shared sewer facilities.

*Community Water Supply System.* A source of water supply and distribution system that includes treatment and storage facilities, serving three (3) or more individual lots, dwelling units, businesses, commercial or industrial establishments, or any combination thereof and may be publicly or privately owned and operated.

*Comprehensive Plan.* For the purposes of this Ordinance the Comprehensive Plan refers to the Cecil County 2010 Comprehensive Plan, as amended.

*Conference Center.* A structure or group of structures designed, used or intended to be used by more than fifty (50) individuals for the purpose of gathering or meeting. Excluded from the definition are schools, hospitals, public institutions, houses of worship, and fire assembly halls when capacity is less than 400 persons.

*Conservation easement.* A non-possessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

*Critical Area.* All lands and water defined in Section 8-1807 of the Natural Resources Article of the Annotated Code of Maryland. They include:



- a. All waters and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- c. Modification to these areas through inclusion or exclusions proposed by local jurisdictions and approved by the Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

*Critical Area Commission.* The Maryland Chesapeake and Coastal Bays Critical Areas Commission.

*Day Care Center, Family.* A home or facility where care is given, for part of a twenty four (24) hour day, to from one (1) to not more than eight (8) children, elderly, or handicapped persons, located out of the home of the legal guardian and where compensation is paid for the care.

*Day Care Center, Group.* An entity, licensed by the state, where care is given for part of a twenty four (24) hour day, to nine (9) or more children, elderly, or handicapped persons, and which operates on a regular schedule more than once a week.

*Dedication.* The transfer of property from private to public ownership as may be required to provide for the public health, safety, and welfare.

*Deed Restriction.* A private legal restriction and/or covenant on the use of the land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and the enforcement of these is through private civil action. Deed restrictions are not enforced by Cecil County, Maryland unless it is Cecil County, Maryland, that records the deed restrictions.

*Density.* The number of dwelling units that may be constructed per acre of the gross area of a zoned tract of land.

*Developed Woodlands.* Areas one (1) acre or more in size that predominantly contain trees and natural vegetation and that also include residential, commercial, or industrial structures and uses.

*Developer.* A person who is responsible for any undertaking that requires a zoning permit, conditional use permit, sign permit, site plan, or subdivision approval. In the Chesapeake Bay Critical Area, a developer means a person who undertakes development activity as defined in this Ordinance; or a person who undertakes development as defined in the criteria of the commission.

*Development or Development Activities.* Any construction, modification, extension, or expansion of buildings, or structures; grading; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land.

*Development Envelope.* The area comprised of lots, structures, bufferyards, impervious surfaces, utilities, stormwater management devices, sewage disposal areas, and any areas subject to regular human use such as active recreation areas.

*Dispensing Device.* Any mechanism designed to distribute in portion, any product contained in the device. Dispensing device includes automatic teller machines.

*District.* A geographic area within the County subject to certain zoning regulations.

*Drainageways.* A ditch, levee, watercourse, or other natural or artificial condition for the removal of surplus or excess surface water collecting or accumulating on the land.

*Driveway.* That portion of a parking area that consists of a travel lane bounded on either side by an area that is not part of the parking area.

*Dwelling.* A building, or portion thereof, designed or used exclusively for residential occupancy, including single family dwellings, two family dwellings, and multi-family dwellings (not including hotels and motels). In the Chesapeake Bay Critical Area, a dwelling means a single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with everyday life. Dwelling units include living quarters for domestic or other employee or tenant, an in-law or accessory apartment, guest house, or caretaker residence.

*Dwelling, Attached.* A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

*Dwelling, Detached.* A building containing one (1) dwelling unit on one (1) lot and detached from any other dwelling.

*Dwelling, Duplex.* A building containing two (2) attached dwelling units which share a common wall and which are on one (1) lot.

*Dwelling, Multi-family.* A building containing three (3) or more attached dwelling units having common walls and/or roof and a separate entry for each unit. This definition includes townhouses and apartments.

*Dwelling, Semi-detached.* A building containing two attached dwelling units which share a common wall at the lot line and which are on separate lots.

*Dwelling, Townhouse.* A building containing three (3) or more attached dwelling units in a row having access from the front and rear of the dwelling.

*Dwelling Unit.* A group of rooms located within a building, not including manufactured homes or travel trailers, designed for a single family unit containing living, sleeping, cooking, washing, and toilet facilities.

*Easement.* A right given, sold, or exchanged by an owner of land to another party for a specific limited use of that land.

*Environmental Assessment.* A comprehensive report that describes the natural features and characteristics of a proposed development site, the changes that will occur as the result of proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and mitigation measures to be taken to minimize undesirable impacts to the environment.

*Exclusion.* An act, County Council of Cecil County, approved by the Chesapeake Bay Critical Area Commission, that exempts an area of the County from certain provisions of the Zoning and Subdivision Regulations applicable only to the Critical Area District.

*Façade.* The surface area of the front elevation of a structure.

*Family.* One or more persons living together as a single housekeeping unit.

*Farmer's Market.* A retail market selling agricultural products.

*Feedlot.* Any tract of land or structure, pen, or corral wherein cattle, swine, poultry, sheep or goats are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

*Fence.* A barrier or wall of appropriate construction materials, other than natural vegetation, intended to prevent intrusion or escape, to mark a boundary, or to enclose an area to provide screening or privacy.

*Festival or Events.* Occasional outdoor festivals or events, including but not limited to horse shows, carnivals, dog shows, arts and craft shows, music festivals, etc., and seasonal business uses.

*Finding of Fact.* An evaluation provided by the County Council and/or their designee for a proposed amendment to this ordinance or official zoning maps.

*Fishery.* A parcel or building where commercial water dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks,

amphibians and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore based facilities necessary for aquaculture operations.

*Flex Space* – A single, multi-tenant, nonresidential building containing more than one permitted use. Uses within flex space must meet all applicable requirements of this Ordinance as soon as the specific proposed use is known, whether at the subdivision, site plan, or permit application stage. The number of tenant units/accommodations within a given flex space building shall be provided to the Office of Planning & Zoning by the developer.

*Flood.* General and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.

*Floodplain.* That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

*Floodproofing.* Any combination of structural and non-structural changes which reduce or eliminate flood damage to improved property.

*Flood-related Erosion.* The collapse or subsidence of land along the shore of a body of water as a result of undermining caused by waves or currents or water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water.

*Forest.* In the Cecil County Critical Area a forest is defined as a biological community dominated by trees and other woody plants covering a land area of one (1) acre or more. This also includes forests that have been cut but not cleared. Elsewhere in Cecil County, a forest is defined as a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest does not include orchards. Forest includes:

- a. Areas that have at least 100 trees per acre with at least 50% of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger;
- b. Forest areas that have been cut but not cleared.

*Forest Conservation Regulations.* The local program and regulations required by the Forest Conservation Act of 1991, Natural Resources Article, Section 5-1601 through 5-1613, Annotated Code of Maryland, as amended.

*Forest Management.* The protection, manipulation, and utilization of the forest to provide multiple benefits such as timber harvesting and wildlife habitat.

*Forest Practice.* The alteration of the forest either through tree removal or replacement to improve the timber, wildlife, recreational, or water quality.

*Garage.* A fully enclosed building accessory to a residence, for the storage of one or more motor vehicles not including buildings in which fuel is sold or commercial repair or other services are performed.

*Golf Course.* An area publicly or privately owned, on which the game of golf is played, containing at least nine (9) holes; together with such necessary and usual accessory uses as a club house, driving range, caretaker's dwellings, dining and refreshment facilities.

*Golf Driving Range.* A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

*Governing Body.* The Executive and Council of Cecil County, Maryland.

*Grandfathered.* Describes the status accorded certain properties, uses and activities that are legally existing prior to the date of the adoption of this Ordinance or provisions of this Zoning Ordinance.

*Greenhouse.* An enclosed building, permanent or portable, which is used for growing small plants.

*Greenway.* A linear park, alternative transportation route, or open space conservation area identified on the Greenways and Unofficial Bikeways Map, that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas.

*Group Home.* A dwelling in which one (1) to sixteen (16) mentally or physically handicapped individual(s) or individual(s) recovering from drug and/or alcohol abuse are provided care or treatment in a homelike environment as provided for in the Health-General Article 7-101, 7-603, 10-514, and 10-518 of the Annotated Code of Maryland.

*Growth Allocation.*

- a. An area of land calculated as five (5) percent of the total Resource Conservation Area (excluding tidal wetlands and federally owned land), that the County may convert to more intense management areas to accommodate land development; also
- b. An act of the County Council, approved by the Critical Area Commission, that provides for conversion of a property or properties located in Resource Conservation Areas and/or Limited Development Areas in the Critical Area District to another land management classification that allows an increase in the permitted density to the level permitted by the base zoning classification.

*Guest House.* A dwelling, in addition to the principal dwelling intended for temporary occupancy.

*Habitat Protection Area.* The Buffer, non-tidal wetlands, threatened and endangered species, plant and wildlife habitats, anadromous fish spawning propagation waters and species in need of conservation, i.e. colonial bird nesting waters, historic waterfowl staging and concentration areas, and habitats of local significance, as defined in the Cecil County Critical Area Program.

*Halfway House.* A home for not more than nine (9) people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with at least one person providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

*Hazardous Waste.* Any matter identified as a hazardous substance by the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 116, as amended. It also includes waste, substance or material designated as a hazardous substance pursuant to Natural Resources Article, Section 8-1413.2, Annotated Code of Maryland, and COMAR Title 10, subtitle 51, as amended.

*Hazardous Waste Disposal Facility.* All structures, other appurtenances, and improvements on land used for treating, storing, or disposing of hazardous waste, including all operations or storage areas, diked overflow or emergency spillway areas. A hazardous waste disposal facility may consist of several treatment, storage, or disposal operational units; it includes all areas where hazardous waste may be received, stored, handled, or processed.

*Hazardous Waste – Incinerator.* An enclosed device using controlled flame combustion, the primary purpose of which is to thermally breakdown hazardous waste. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators.

*Hazardous Waste – Landfill.* A disposal facility or part of a facility where hazardous waste is placed in or on land.

*Hazardous Waste – Recycling.* The handling of hazardous waste or hazardous material for the purpose of breaking it down to its individual components or some of its components by chemical, mechanical, electrical, or other means. This includes the storage, blending, distillation, handling and reclamation of any materials or blends of chemicals which are deemed hazardous substances or hazardous waste as defined herein.

*Heavy Industry.* Includes the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of materials into finished or semi-finished products, which activities may be conducted outdoors. Heavy industry includes the processing of raw materials.

*Height.* The vertical distance from the highest point of a structure, excepting a chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

*Helicopter Facility.* An area, either at ground level or elevated on a structure, that is used or intended to be used for the landing and taking off of helicopters and includes major helicopter support facilities such as fueling, maintenance, parking, hangaring, administrative offices, cargo loading, and waiting room.

*Highly Erodible Soils and Erodible Soils.* Soils with a slope greater than 15 percent or soils with a "K value" greater than 0.35 and slopes greater than 5 percent. "K value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

*Historic Structure.* A structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, or a local inventory of historic places.

*Home Occupations.* A business conducted by the resident, which is incidental and secondary to residential occupancy and does not change the residential character of the property.

*Homeowner's Association.* A non-profit corporation of property owners which may be empowered to enforce deed restrictions and other covenants in the deed and which may maintain common areas and facilities.

*Hospital.* A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical or surgical care of sick or injured humans and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices, provided that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

*Hotel.* A building offering transient housing accommodation, lodging, or boarding and lodging for the public for compensation, and which access to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may contain restaurants, taverns, club rooms, public banquet halls, ballrooms, and meeting rooms.

*House of Worship.* A building wherein persons regularly assemble for religious worship, and those accessory activities as are customarily associated therewith, which building and accessory activities are maintained and controlled by a religious body organized to sustain public worship.

(amended 5/21/2013)

*Hydric Soils.* Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

*Hydrophytic Vegetation.* Those plants cited in “National List of Plant Species that occur in Wetlands: Maryland, 1988” which are described as growing in water or on substrate that is at least periodically deficient in oxygen as a result of excess water (plants typically found in water habitats).

*Immediate Family Member.* Father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter, step children, or step parents.

*Industrial Auction House.* An establishment for the public sale of industrial related equipment, including but not limited to trucks, backhoes, bulldozers, tractors, graders, lifts, rollers, compressors, forklifts, loaders, and other construction related equipment to the highest bidder. Accessory uses to the Industrial Auction House may include merchandise display area and equipment refurbishing facilities (including washing, painting, maintenance, repair, and sandblasting).

*Intermittent Stream.* A stream in which surface water is absent during part of the year and shown on the most recent U.S.G.S. 7.5 minute Quadrangle maps.

*Kennel, Commercial.* Any land or structures (temporary or permanent) used for the sale, rental, boarding, breeding, training, or care of five (5) or more dogs or cats for compensation.

*Land Clearing.* Any activity that removes the vegetative ground cover.

*Landscaping.* Changing, rearranging, or adding to the original vegetation or scenery to produce an aesthetic effect appropriate for the use to which the land is put. It may include preserving the original vegetation or adding vegetation. The desired effects are buffering, screening, and preservation of natural features.

*Light Industry.* Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

*Liquor Store.* A building or establishment where alcoholic beverages are sold for consumption off the premises.

*Livestock Market.* A commercial establishment wherein livestock is collected for sale or auctioning.



*Loading and Unloading Area.* That portion of the parking area used for the temporary parking of vehicles while loading and unloading merchandise or materials.

*Lot.* A parcel of land recorded in the Office of the Clerk of the Court, or a parcel described by metes and bounds, the description of which has so been recorded.

*Lot Area.* The total area within the lot lines of a lot, excluding any road right of way.

*Lot, Corner.* A lot situated at the intersection of two (2) or more streets (See Figure 1).

*Lot, Interior.* A lot other than a corner lot (See Figure 1).

*Lot, Through.* A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines. Unless circumstances specifically indicate the contrary, the front yard of a waterfront lot is the yard facing the waterway. A waterway for the purpose of this definition is considered to be any body of water or wetland affected by tidal action (See Figure 1).

*Lot Lines.* The property lines bounding the lot.

*Lot of Record.* A parcel of land which has been legally recorded in the Land Records of Cecil County, Maryland.

*Lot, Panhandle.* A polygonal shaped lot with the appearance of a “frying pan” or “flag and staff” in which the handle is most often used as the point of access to a street or road. The “handle”, when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required lot area or delineating the minimum required building envelope. The width of the panhandle at any point must not be less than the minimum required frontage (See Figure 1).

*Lot Line, Front.* A line connecting the foremost points of the side lot lines and dividing the lot from the access right of way.

*Lot Line, Rear.* A line connecting the rearmost points of a side lot line.

*Lot Line, Side.* Any boundary of a lot which is neither a front lot line nor a rear lot line.

*Lot Width.* The horizontal distances between the side lot lines of a lot measured at the front and rear yard setback lines. The front and rear line shall be at least the minimum required by this Ordinance, but may be greater.

*Manufacture.* The process of converting raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for different purposes.

*Manufactured Home.* A transportable structure which is built on a chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

*Manufactured Home, Single Wide.* A manufactured home constructed after July,1 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but does not satisfy the criteria necessary to qualify for the house as a double wide manufactured home.

*Manufactured Home, Double Wide.* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

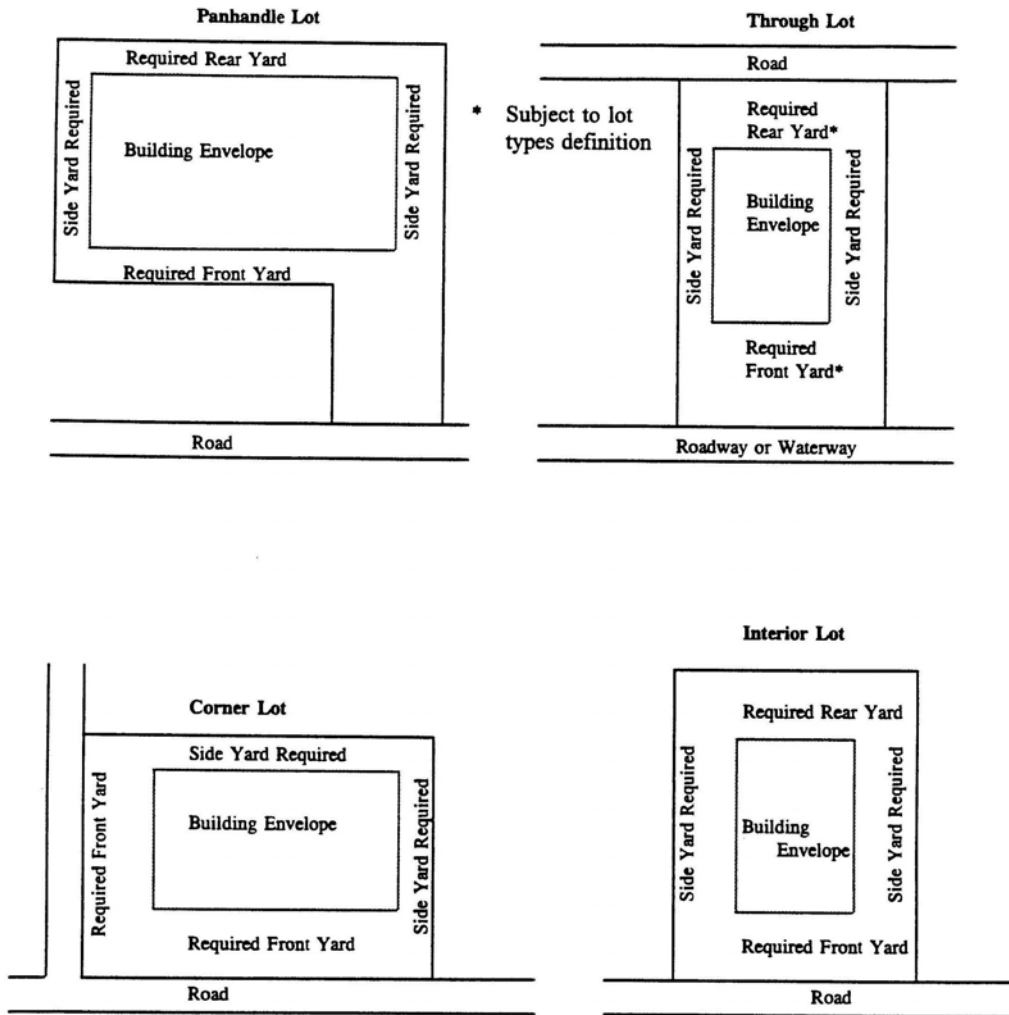
*Marina.* Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales or promotional events, boat and jetski rental and other uses clearly incidental to watercraft activities.

*Marquee.* A roof-like structure of a permanent nature which projects from the wall of a building or its supports and may overhang the public way.

*Mean High Water Line.* The average level of high tides at a given location.

*Metes and Bounds.* A description of land prepared by a Maryland registered land surveyor providing measured distances and courses from known or established points on the surface of the earth.

**Figure 1**



*Mineral Extraction.* The excavation or extraction of any earth products of natural mineral deposit, except where such excavation is for the purposes of grading for a building lot or roadway, where grass sod is removed to be used for landscaping, or where materials are excavated from a lot for use on that same lot by the owner of the property.

*Mineral Resources.* Rock, sand, gravel, clay, oil, gas, minerals, or similar non-renewable substances occurring in their natural state on or below the surface of the earth, the utilization of which requires some form of excavation.

*Mini Storage.* A building or group of buildings in a controlled and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of a customer's goods or wares. At least one toilet facility shall be available to

customers. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

*Minor or Insignificant Impact.* Development or redevelopment activities in the Critical Area that result in little or no land disturbance such as second story additions, maintenance of existing structures, or interior renovations or remodeling.

*Modular Home.* A dwelling unit composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on site.

*Motel.* A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

*Motor Vehicle Filling Station.* Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental; and where no more than two (2) abandoned vehicles or other motor vehicles shall be stored on the premises. Motor vehicle filling stations may include the sale of propane or kerosene as accessory uses.

*Motor Vehicle Repair and Maintenance.* A building or establishment where the following activities may occur: general repair, engine rebuilding, reconditioning of motor vehicles, collision repair, painting, general maintenance, and where no more than two (2) abandoned vehicles shall be stored on the premises.

*Motor Vehicle Sales.* Storage and display for sale of more than two (2) motor vehicles or any type of trailer provided the trailer is unoccupied, and where repair or body work is incidental to the operation of the new or used vehicle sales. Motor vehicle sales include motor vehicle retail or wholesale sales.

*Natural Features.* Components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

*Natural vegetation.* Plant communities that develop in the absence of human activities.

*Neighborhood Essential Services.* Any utility facility needed to provide basic services such as water, sewer, telephone, gas, and cable television to the individual users.

*New Construction.* Structures for which the start of construction as herein defined commenced on or after the effective date of this Ordinance. This does not apply to any work on a structure existing prior to the effective date of these provisions.

*Non-conforming.* A lot, tract, area, parcel, width, use or other characteristic which fails to meet the requirements of its zoning district as described by this Ordinance.

*Non-conforming Structure.* An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for use that does not conform to the use regulations for this Ordinance, for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments.

*Non-conforming Uses.* A lawfully pre-existing use of part or all of a parcel of land or structure, which is not permitted by the applicable zone regulations of this Ordinance.

*Non-tidal Wetlands.* An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

*Nursery.* An enterprise which conducts the retail and/or wholesale of plants grown on the premises, as well as accessory items (but not power equipment such as lawnmowers and farm equipment) directly related to their care and maintenance.

*Nursing Care Facility.* A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than available in a hospital.

*Occupancy Permit.* Official certification that a premise conforms to provisions of the Zoning Ordinance and may be occupied. Unless such a permit issued, a structure cannot be occupied.

*Office.* An office for the use of professional people such as doctors, lawyers, accountants, etc. or general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

*Office, Class A.* A principal building that is not necessarily the only building on the lot on which it is situated; it may be attached to another building; it is not limited in floor area by definition (although it may be so limited by bulk regulations). Class A office may include separate office buildings, supporting uses and open space designated, planned, constructed and managed on an integrated and coordinated basis.

*Office, Class B.* A principal building that is not attached to any other building and is the only building on the lot on which it is situated.

*Office, Class C.* A principal building that was originally constructed as a one or two family detached dwelling and that is converted to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purpose of this definition, enclosure of a porch does not constitute external enlargement.

*Official Cecil County Roadway Classification Map.* The map approved by the County Council that designates roadways in Cecil County as arterial, collector, or local roadways.

*Off-Street Parking Area.* Space provided for vehicular parking not on a street or roadway.

*One Hundred Year Floodplain.* The base flood, having a one chance in a hundred of being equaled or exceeded in any year.

*Open Space.* Land and water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

*Open Water.* Tidal waters of the State that do not contain tidal wetlands and/or submerged aquatic vegetation.

*Outbuilding.* A separate accessory building or structure not physically connected to the principal building.

*Pad, Development.* The area of a lot, within a larger overall lot area that is devoted to structures and septic systems. In general, where a development pad is prescribed, the remaining area of the lot must be maintained in natural vegetation.

*Parapet.* The extension of the main walls of a building above the roof.

*Parcel.* A lot or contiguous group of lots or other separately legally described land in a single ownership or under single control and which may be a unit for development purposes.

*Parking Area, Lot, or Structure.* A structure, or an off street area for parking or loading and unloading, whether required or permitted by this Zoning Ordinance, including driveways, access ways, aisles, and maneuvering areas, but not including any public or private street right of way.

*Parking Area Aisles.* A portion of a parking area consisting of lanes providing access to parking spaces.

*Parking Space.* A portion of a parking area set aside for the parking of one vehicle.

*Perennial Stream.* A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute Quadrangle published by the United States Geological Survey.

*Permanent Construction.* Any structure occupying a site for more than 180 days per year.

*Permitted Use.* A use by right which is specifically authorized by this Ordinance to be within a particular zoning district as described by the Official Zoning Maps.

*Physiographic Features.* The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

*Planned Unit Development.* A unified site design providing for density increases, clustering, and a mix of building types and land uses.

*Plot Plan.* A sketch that includes the requirements listed in Appendix A.

*Policy.* A statement and/or document of the County Executive of Cecil County, the Board of Appeals, or the Cecil County Planning Commission that forms the basis for making decisions.

*Premises.* A lot together with all buildings and structures thereon.

*Principal Structure.* The main building or buildings housing the principal use on the lot.

*Principal Use.* The primary use occurring on or within the boundaries of a lot as permitted by this Ordinance in a particular zoning district. All other uses within the lot boundaries are considered incidental or accessory.

*Private Club.* Buildings and facilities owned and operated by a corporation, association, person or persons, for social, educational, or recreational purposes, but not primarily for profit which accrues to any one individual and not primarily to render a service which is customarily carried on as a business.

*Private Tidal Wetlands.* Include:

- a. Land not considered State wetlands bordering or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth;
- b. Tidal wetlands transferred by the State by valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred; and

c. Tidal waters created by the excavation of upland unless conveyed by the State.

*Private Pier.* A privately owned pier that is no more than six (6) feet wide.

*Production Area.* That part of an animal feeding operation that includes, but is not limited to, the animal confinement area, compost area, the manure storage area, the raw materials storage area, the waste containment areas, and any area used in the storage, handling, treatment, or disposal of mortalities. The animal confinement area includes open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storage, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes settling basins, and areas within berms and diversions which separate uncontaminated storm water.

*Program Amendment.* Any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a program refinement.

*Program Refinement.* Any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of the land or water in the Critical Area. Program refinement may include:

1. A change in the adopted program that results from State law;
2. A change to an adopted program that affects local processes and procedures;
3. A change to a local ordinance or code that clarifies an existing provision; and
4. A minor change to an element of an adopted program that is clearly consistent with the provisions of State Critical Area law and all criteria of the Commission.

*Public Utilities.* Uses or structures for the public purpose of power transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities (but not utility truck terminal facilities); radio and television facilities (not including broadcast studios); and rail or highway rights of way (not including stations or terminals).

*Public Way.* Any sidewalk, street, alley, highway, or other public thoroughfare.

*Public Water & Sewer System.* A water and sewer system owned and operated by a municipality or County or an authority or owned by and operated by the governing body and permitted by the State of Maryland, and subject to special regulation.



*Racetracks.* A measured course where animals or machines are entered into competition against one another or against time, not including tracks that are used in the training of animals.

*Recycling Facility.* A parcel or facility where materials that would otherwise become solid waste are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

*Redevelopment.* The process of developing land that is or has been developed.

*Reforestation.* The establishment of a forest through artificial reproduction or natural regeneration.

*Resort.* A facility which provides special recreational amenities or is designed for access to unique natural amenities for recreation or relaxation of the users and not primarily oriented to single night lodging.

*Restaurants.*

- a. Restaurant, Standard – A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth, or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.
- b. Restaurant, carry-out, delivery – Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged, presented or delivered so it can readily be eaten away from the premises as there are no facilities for on-premise consumption of food.
- c. Restaurant, drive through or fast food – Any establishment where ready to eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive through window or while parked.

*Retirement Housing Complex.* A group of buildings or a development designed and operated as an entity which provides housing services and other incidental services which are typically used on a daily basis, to persons who are retired. A retirement housing complex may provide medical care to residents.

*Rezoning.* An amendment to or change in the Zoning Ordinance or zoning map.

*Road Frontage.* That portion of a lot which abuts a County or State maintained road or a private mini-road built and designed in accordance with the Cecil County Road Code.

*Roadside Stand.* An area, structure, or vehicle used for display and sale of agricultural produce, where the majority of the produce is produced by the owner on the premises or within the immediate neighborhood of the roadside stand.

*Roadway, Arterial.* A major street in the county's street system that serves as an avenue for the circulation of traffic onto, out, or around the County and carries a high volume of traffic.

*Roadway, Collector.* A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets but that may also provide direct access to abutting properties.

*Roadway, Local.* A street whose principal function is to provide direct access to abutting properties.

*Rubble Landfill.* An area or tract of land which is used for the disposal of land clearing debris, demolition debris, construction debris, road building debris, remodeling debris, and repair debris.

*Salvage Yard.* Any area not within a building where waste, discarded or salvaged materials are bought or sold, exchanged, baled, packed, stored, disassembled, handled, abandoned, including the salvaging, storing, wrecking of automobiles and other vehicles, machinery or parts thereof, house wrecking yards, used lumber yards and places for storage of salvaged building or structural steel materials and equipment. Any property occupied by an unlicensed vehicle shall constitute a salvage yard unless the vehicle is stored within a building or if the vehicle is stored within fifty (50) feet of a dwelling on the property and it falls into one of the following categories:

- a. One genuine antique or classic vehicle (but not to be used for parts) which is actively being restored;
- b. Vehicles which must be held pending settlement of insurance and similar claims;
- c. A vehicle recently purchased, pending inspection, for a period not to exceed sixty (60) days; and
- d. A vehicle being advertised for sale, for a period not to exceed sixty (60) consecutive days.

*Sanitary Landfill.* A land disposal site employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards by spreading, compacting, and applying covering material as required.

*Sawmill.* A facility where raw timber is cut or stripped to produce lumber or wood products, not including the cutting of timber for use on the same lot by the owner or resident of that lot.

*Screening.* A barrier of appropriate natural vegetation or appropriate fencing materials intended to provide a physical and/or visual buffer between uses as specified by the Ordinances and Regulations of Cecil County.

*Seat.* For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty four (24) lineal inches of benches, pews, or space for loose chairs.

*Setback.* The required distance between the point where any structure on a lot meets the ground surface and any lot line or boundary of a vehicular right of way. For purposes of CAFOs, setback is defined as an area where no animal waste is applied between the fertilized field and waters of the state.

*Sewage Sludge Composting.* Sewage sludge composting is defined as a process wherein material is produced by subjecting a mixture of sewage sludge and bulking agent, such as wood chips, to

aerobic decomposition in the manner so as to destroy primary pathogenic and malodorous components.

*Shopping Center.* A retail and/or service commercial development designed, built, or used as an integrated use with more than one tenant or occupant and characterized by common parking, access, landscaping, and utilities.

*Shore Erosion Control Measures.* Any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas. More specifically, the term refers to:

- a. Structural:
  1. Revetment – facing laid on a sloping shore to reduce wave energy and contain shore materials.
  2. Bulkhead – excluded due to adverse impacts to the near shore marine environment, except in the following special cases:
    - (a) Where erosion impact is severe and high bluffs and/or dense woodland preclude land access, bulkheads can be installed by shallow draft barge and pile driver; and
    - (b) In narrow, manmade lagoons for activities that require frequent interchange between boats and land.
- b. Nonstructural – creation of an intertidal marsh channelward of the existing bank by one of the following methods:
  1. Vegetation – planting an existing shore with a wide band of vegetation;
  2. Bank Sloping/Vegetation – sloping and planting a non-wooded bank to manage tidal water contact, using structures to contain sloped materials if necessary; and
  3. Contained Beach – filling alongshore with sandy materials, grading, and containing the new beach to eliminate tidal water contact with the bank.

*Significant Impact.* Any land disturbance not defined as a “minor or insignificant impact” in the Cecil County Critical Area Program.

*Significantly Eroding Areas.* Shoreline areas eroding at a rate of two (2) feet or greater per year.

*Site Plan, Major or Minor.* A plan, to scale, showing uses, structures, and required improvements proposed for a parcel of land as required by this Ordinance.

*Sketch Plat.* A plat containing the required information listed in Appendix A.

*Slaughterhouse.* An establishment where animals are butchered.

*Sludge.* The waste byproduct that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms and, except for lime stabilization, reduce the volatile solids content.

*Sludge Application.* Application is defined as the incorporation or injection into the root zone or soil profile of sewage sludge or wastewater solids.

*Sludge, Co-Landfilling.* Co-landfilling is defined as the mixing and compacting of sludge with solid waste as part of a normal sanitary landfill operation.

*Sludge Disposal Facility.* Any facility used to contain, store, utilize, or dispose of stabilized sludge, including a surface impoundment, a site used for incineration, co-landfilling, application, or composting of stabilized sludge.

*Sludge Handling.* Handling in general is defined as any manner in which sewage sludge is handled, utilized, or otherwise managed or stored including incineration, composting, co-landfilling, and application.

*Sludge Incineration.* Incineration is defined as the combustion of sewage sludge in a closed system with adequate controls to yield a non-putrescible ash and air effluent of quality permissible by law.

*Sludge, Stabilized.* The sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms, and except for lime stabilization, reduce the volatile solids content.

*Sludge, Surface Impoundment.* A facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) which is designed to hold an accumulation of solid waste in semi-solid or liquid form. Examples of surface impoundments are holding, storage settling, and aeration pits, ponds, and lagoons.

*Sludge Transportation.* The moving of stabilized sludge over public roads or across any areas to which the public has access.

*Soil Conservation and Water Quality Plans.* Land use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate how the landowner plans to treat a farm unit, which best management practices the landowner plans to install to treat undesirable conditions, and the schedule for applying best management practices.

*Special District.* An area described in the Zoning Ordinance or on the official zoning map within which special regulations are applicable.

*Special Exception.* A special exception is a use, approved by the Board of Appeals, that would not be appropriate generally or without restriction throughout the zone, but which if controlled as to

number, area, location, or other factors would promote the general public health, safety, welfare, comfort, convenience, or appearance.

*Species of Concern.* Rare, threatened or endangered species or species in need of conservation.

*State Tidal Wetland.* Any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Tidal wetlands of this category which have been transferred by the State by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.

*Steep Slopes.* Any slope with a grade of 25 percent or more covering a contiguous area of 10,000 square feet or more shall be considered a steep slope.

*Storage Trailer & Container.* A trailer or container, not designed for human habitation, that is located for the storage of items and materials. Manufactured homes shall not be considered storage trailers.

*Storage Trailer Facility.* An area where more than one storage trailer is located for sale, rent, or lease.

*Stormwater Management.* For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by manmade changes to the land. For qualitative control, a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

*Street.* A public street or a street with respect to which an offer of dedication has been made.

*Street, Marginal Access.* A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

*Structure.* A construction extending above grade with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, walls, carports, towers, tanks, and billboards. A manufactured home, even though it may be moved from time to time, is considered to be a structure.

*Subdivision.* The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of the sale or building development (whether immediate or future).

*Subdivision agreement* – an agreement between the County and a developer in which the developer agrees to perform required work and install or construct required improvements in a good, timely, and workmanlike manner in accordance with existing laws, regulations, and/or conditions of subdivision approval. A security arrangement (i.e. financial surety) or other collateral to secure the cost of installing or constructing said improvements shall be provided prior to the issuance of building permits for the project. A subdivision agreement shall be prepared by the developer, or at the developer's expense, and be reviewed for legal sufficiency by the County Attorney and select County staff. Following signature by authorized representatives of both the County and the developer, the subdivision agreement shall be recorded in the Land Records of Cecil County.

*Subdivision, Major.* A process of subdivision subject to review by the Technical Advisory Committee and the Planning Commission as described in the Subdivision Regulations.

*Subdivision, Minor.* A subdivision approved by the Office of Planning & Zoning by which up to a total of five (5) lots may be created from a parcel as it existed on April 15, 1976. Remaining land shall be considered as part of the five lots.

*Subdivision Regulations.* County ordinance that regulates the conversion of raw land into building lots for residential or other purposes.

*Surface Waters of the State.* Surface waters within the boundaries of this state subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of this state, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, tidal and non-tidal wetlands, public ditches, tax ditches, and public drainage systems within this state, other than those designated and used to collect, convey, or dispose of sanitary sewage; and the floodplain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.

*Tavern.* An establishment where alcoholic beverages are sold and consumed on the premises.

*Television or Satellite Dish.* A device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located on the same lot as the main structure.

*Tenant House.* A dwelling, in addition to the principal dwelling, intended to house farm help. One tenant house may be erected per every one hundred acres without subdivision.

*Tidal Wetlands.* All State and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries.

*Timber Harvest Plan.* A plan designed to detail the commercial harvesting by cutting and removing tree stems from a site for commercial purposes. These plans shall be prepared by a registered forester or landscape architect.

*Topography.* The existing configuration of the earth's surface including the relative relief, elevations, and position of land features.

*Transfer Development Rights.* Transfer development rights (TDR) allow a landowner to separate building or development rights from a parcel of land and then sell those rights. The parcel of land is retained, but it no longer has the development potential that has been sold. TDR programs thus shift the development potential of one parcel of land to a different parcel by a market pricing mechanism-facilitated transaction.

*Travel Plaza.* A complete integrated facility servicing the motoring public located near an interstate highway, including overnight accommodations, restaurants, fuel servicing, and other necessary items required by all sectors of the motoring public including automobiles, trucks, and buses and which does not cater predominantly to tractor trailers or other large highway vehicles.

*Travel Trailer or Camper.* A portable structure built on a chassis, whether self-propelled or towed, to be used as temporary dwelling for travel, recreation, and vacation uses where factory equipped for the road, not requiring special permits to use the road and not being in excess of 45 feet in length, excluding the tongue for towed vehicles. A travel trailer owned by the occupant of a legally existing dwelling may be stored on the premises.



*Tributary Stream.* Perennial or intermittent streams in the Critical Area that are so noted on the most recent U.S.G.S. 7.5 minute Quadrangle maps or on more detailed studies or maps at the discretion of the County.

*Truck Stop.* A facility catering predominantly to tractor trailers and other large highway vehicles in which services such as fuel, food, repair, lodging and similar items are provided.

*Truck Terminal.* A parcel where two (2) or more trucks or trailers are stored. Truck terminals may include parcels used for the loading or unloading of trucks and the temporary storage of goods and commodities pending transfer. Truck terminals may also include warehouse facilities for the temporary storage of goods in transit. Other uses such as eating facilities, truck fueling and repair facilities, and sleeping quarters for truck drivers may be permitted as accessory uses only.

*Tunnel Ventilation Fan.* A series of exhaust fans, usually 48 inches or greater in diameter, that are located at one end of the poultry house. Outdoor air is drawn into the poultry house either through sidewall air inlets (transitional ventilation) or tunnel inlets located at the opposite end of the house from the tunnel ventilation fans. The primary function of these fans is to operate in stages as a means of keeping birds comfortable through increased cooling by high air velocity.

*Use.* The activity or function that actually takes place or is intended to take place on a lot.

*Use, Permitted.* A use which may be lawfully established in a particular district or districts provided it conforms with all regulations, requirements, and standards for such district.

*Variance.* A modification of zoning ordinance regulations for height, frontage, area or size of structure, or size of yards and open spaces, where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the result of any action taken by the applicant, and where a literal enforcement of the Ordinance would result in unnecessary hardship.

*Warehouse.* A structure in which goods, materials, or other items are stored for compensation for a period of time pending transfer or sale. A warehouse may include wholesale facilities.

*Water Dependent Facilities.* Structures or works associated with industrial, maritime, recreational, educational, or fisheries activities which Cecil County has determined require location at or near the shoreline within the buffer.

*Wholesale Sales.* On premise sale of goods primarily to customers engaged in the business of reselling the goods.

*Wildlife Corridor.* A strip of land having vegetation that provides habitat and safe passageway for wildlife.

*Yard.* The required open space of a lot outside the building envelope.

*Yard, Front.* A yard extending across the front of the lot between the side lot lines and between the front setback line and the front lot line. Unless circumstances specifically indicate the contrary, the front yard of a waterfront lot is the yard facing the waterway. A waterway for the purposes of this definition is considered to be any body of water or wetland affected by tidal action.

*Yard, Rear.* A yard extending across the rear of the lot between the side lot lines and between the rear setback line and the rear lot line.

*Yard, Side.* A yard extending along the side lot line between the front and rear setback lines.

*Youth Camp.* A facility, either publicly or privately owned, that provides indoor or outdoor activities for children, including activities such as sports, arts & crafts, entertainment, recreation, educational activities, swimming, fishing, and horseback riding. The camp may include buildings, structures, and sanitary facilities designed for the recreation and education of youth.

*Zoning Certificate.* A permit issued by the Zoning Administrator or his agent that authorizes the recipient to make use of the property in accordance with the requirements of this Ordinance.

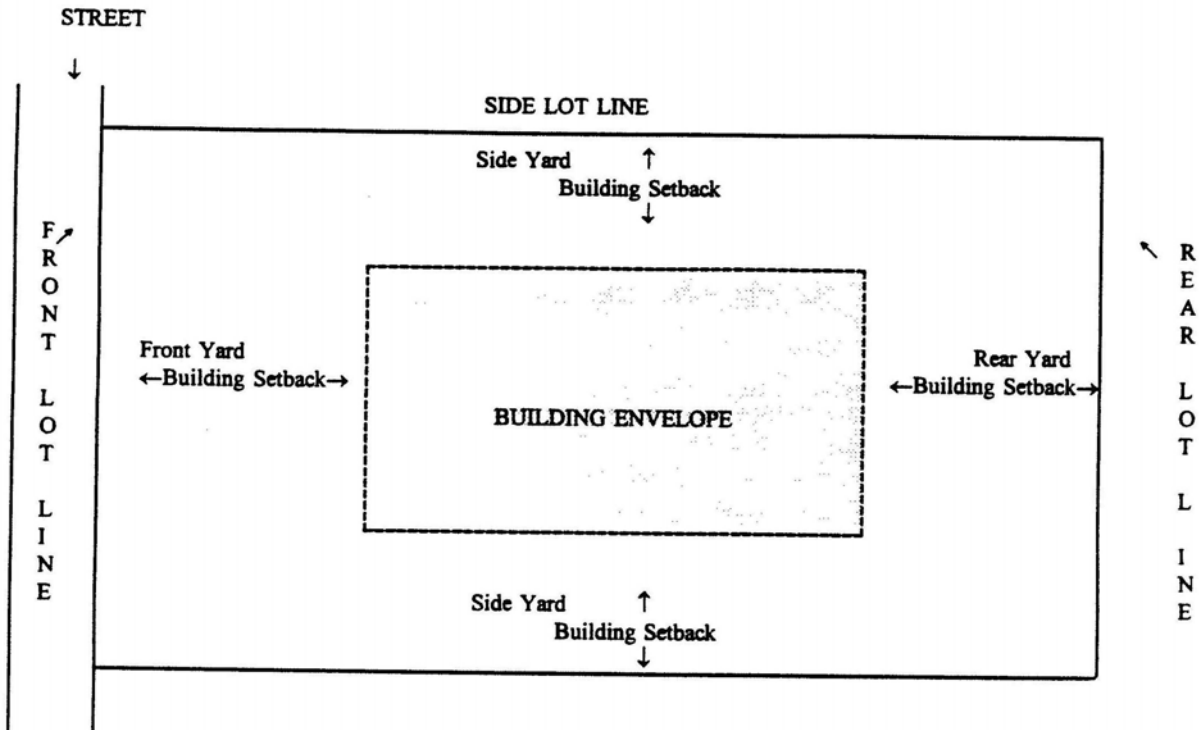
*Zoning, Certificate of.* Official written certification issued by the Zoning Administrator that a proposed use is in conformance with the Cecil County Zoning Ordinance by complying with the requirements for the zone in which the use is located.

*Zoning Overlay District.* A district which is placed over the parent zoning district and which is intended to supplement the regulations of the parent district to accomplish a special purpose for which the overlay district is established.

*Zoning, Parent District.* Those basic districts initially listed other than overlay districts.

*Zoo.* An area, building, or structures which contain wild animals on exhibition for viewing by the public.

**Figure 2**



**Part II Zoning Maps**

**Section 13. Official Zoning Maps**

1. The unincorporated areas of the County are hereby divided into zoning districts, as shown on the Official Zoning Maps which, together with all explanatory matter thereon, is hereby adopted by reference and declared a part of this Ordinance.
2. The Official Zoning Maps shall be identified by the signature of the County Council attested to by the County Executive, bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Maps referred to in Article II, Section 13 of the Zoning Ordinance of the County of Cecil.", together with the date of the adoption of the Ordinance.
3. Regardless of the existence of purported copies of the Official Zoning Maps which may from time to time be made or published, the Official Zoning Maps which shall be located in the office of the County Executive, shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the County. A copy of the maps shall be located in the Department of Land Use and Development Services.

**Section 14. Replacement of Official Zoning Maps**

1. In the event that the Official Zoning Maps become damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the County Council may by resolution adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps.
2. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The Department of Land Use and Development Services shall certify as to the accuracy of the new Official Zoning Maps and the maps shall be identified by the signature of the County Council attested by the County Executive, and bearing the seal of the County under the following words: "This is to certify that these Official Zoning Maps supersedes and replaces the Official Zoning Maps adopted (date of adoption of maps being replaced) as part of the Zoning Ordinance of the County of Cecil, Maryland."

**Section 15. Location and Boundaries of Zones**

1. A zoning district is represented by name in this Ordinance and by letter or letter and number combinations or name and number combinations on the Zoning Maps. Where an area on the maps is designated as a certain district, the zoning regulations pertaining to that district shall prevail.
2. The location and boundaries of zones established in the districts shall be as shown on the Official Zoning Maps for Cecil County, Maryland. These maps, sections, or portions thereof, together with all notations, dimensions, designations, references, and other data shown thereon, are made part of this Ordinance to the same extent as if the information set forth on the maps were fully described and incorporated herein.
3. Where uncertainty exists as to the boundaries of any of the zone districts established in this Ordinance, as shown on the Official Zoning Maps, the following rules shall apply:
  - a. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries;
  - b. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 10 feet distant therefrom, such lot lines shall be such boundaries;
  - c. In un-subdivided property, or where a zone boundary divides a lot the location of any such boundary, unless the same is identified on such maps, shall be determined by the use of the map scale shown thereon and scaled to the nearest foot.
  - d. Boundaries indicated as approximately following town or county limits shall be construed as following town or county limits.
  - e. Boundaries indicated as following railroad lines shall be construed to be midway between the outside rails;
  - f. Boundaries indicated as following shorelines shall be construed to follow such shorelines, (except as provided in paragraph g. below) and in the event of change in the shoreline

shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;

- g. The boundary of any zone adjoining the shoreline of any water body shall be construed to incorporate within said zone any shoreline structure, including docks, piers, boathouses, loading and launching facilities;
- h. Boundaries indicated as parallel to or extensions of features indicated in Subsection a. through f. above shall be so construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the map;
- i. Where physical or cultural features existing on the ground are at variance with those shown features on the Official Zoning Maps, or in circumstances not covered by Subsections a. through f. above, the Department of Land Use and Development Services shall interpret the zone boundaries.

#### **4. Lots Divided by District Lines**

- a. Whenever a single lot one acre or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.
- b. Whenever a single lot greater than one acre in size is located within two or more different zoning districts, each portion of that lot shall be subject to all regulations applicable to the district in which it is located.

### **Section 16. Official Floodplain Maps**

- 1. Official floodplain maps shall be prepared and maintained as part of the Official Zoning Maps of the County. It shall reflect the boundaries of the Floodplain District and its subdistricts.
- 2. The delineation of the Floodplain District may be revised, amended, and modified by the County Council in compliance with the National Flood Insurance Program and the Maryland Department of the Environment when:
  - a. There are changes through natural or other causes;
  - b. Changes are indicated by future detailed hydrologic and hydraulic studies;
  - c. All such changes to the delineation of the District shall be subject to the review and approval of the Federal Insurance Administrator.
- 3. Should a dispute concerning a specific elevation or the application of the Floodplain zone regulations arise, an initial determination shall be made by the Office of Planning & Zoning.
- 4. If not used for human habitation, piers, boathouses, covered slips, and similar structures shall not be subject to the floodproofing requirements of this Ordinance.

### **Section 17. Mineral Extraction Zone – B (MEB) Map Interpretation**

The purpose of the MEB overlay district is to identify areas of the County where mineral extraction may occur by special exception. This overlay designation shall only apply to those areas designated as Mineral Extraction District on the Land Use Plan of the 2010 Cecil County Comprehensive Plan. It is intended that this overlay designation apply to those portions of the Mineral Extraction District where there is potential for conflict between adjacent current and future land uses and mineral extraction activity. Permitted uses in the MEB District shall be those as specified for the underlying zone.

**Section 18. Amendments to the Official Zoning Maps**

1. Amendments to the Official Zoning Maps are accomplished using the same procedures that apply to other amendments to this Ordinance.
2. Amendments to the Official Zoning Maps involving any land within the critical Area District shall comply with the requirements for amendments within the Critical Area District.
3. If, in accordance with the provisions of Article 25A & 66B of the Annotated Code of Maryland, changes are made in the zone boundaries or other matter portrayed on the Official Zoning Maps, such changes shall be made on the Official Zoning Maps promptly after the amendment has been approved by the County Council, together with an entry on the Official Zoning Map as follows: “ On (date), by official action of the County Council, the following “changes”, were made on the Official Zoning Map, which entry shall be signed by the County Council and attested by the County Executive. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Maps. No amendments to this Ordinance which involves matter portrayed on the Official Zoning Maps shall become effective until such change and entry has been made on said map.
4. No changes of any nature shall be made in the Official Zoning Maps or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in the penalties and remedies section of the Ordinance.
5. The County shall keep copies of superseded prints of the zoning maps for historical reference.

**Section 19. Reserved**

**Section 20. Reserved**

**ARTICLE III                      ZONING DISTRICTS**

**Section 21.      Districts Established**

1. The unincorporated areas of the County shall be divided into one of the following zoning districts:

- “NAR” - Northern Agricultural Residential;
- “SAR” - Southern Agricultural Residential;
- “RR” - Rural Residential;
- “MH” - Manufactured Home;
- “LDR” - Low Density Residential;
- “ST” - Suburban Transition Residential;
- “UR” - Urbanized Residential;
- “VR” - Village Residential;
- “RM” - High Density Residential
- “RMU” - Residential Mixed Use;
- “EMU” - Employment Mixed Use;
- “MEA” - Mineral Extraction A;
- “OS” - Open Space;
- “BL” - Business Local;
- “BG” - Business General;
- “BI” - Business Intensive;
- “MB” - Maritime Business;
- “M1” - Light Industrial;
- “M2” - Heavy Industrial;

2. The districts shall be established to regulate and restrict the location of residences, trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; and to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings.

**Part I                      Agricultural Residential Districts**

**Section 22.      NAR - Northern Agricultural Residential**

1. Purpose. The purpose of the Northern Agricultural Residential zone is to maintain the existing rural character of the County by encouraging the continuation of agricultural and forestry uses. This zone is intended to prevent premature urbanization in areas where planned public facilities will only meet rural needs. The NAR also requires that the essential

elements of rural character are included in new development. Low density residential development is permitted.

2. Maximum Residential Density Provisions. Maximum permitted residential densities shall be as follows:
  - a. One (1) dwelling per acre in minor subdivisions.
  - b. One (1) dwelling unit per ten (10) acres shall be permitted in major subdivisions. Sixty (60) percent open space is required.
  - c. Shared water and sewer facilities serving the subdivision are permitted to enhance the clustering of the lots.
  
3. General Open Space Provisions. A minimum of fifteen (15) percent common open space shall be required for all subdivisions involving ten (10) or more lots, unless:
  - a. A payment has been made to the County's Purchase of Development Rights program in lieu of common open space; or
  - b. The large lot contributes seventy-five (75) percent open space to the subdivision.

For each percentage of open space in excess of sixty (60) percent, the required common open space may be reduced, on a one-to-one basis, up to the seventy-five (75) percent maximum allowed.

If common open space is provided, for other than stormwater management or fire suppression drafting tank purposes, then active/passive recreational amenities must be provided by the developer and be approved by the Planning Commission, unless:

- a. A deed-restricted, active agricultural easement on the large lot has been created for agricultural cultivation; or
- b. A deed-restricted conservation easement on the large lot has been created for forest banking; and
- c. Such active agricultural or conservation easements consist of at least sixty (60) percent of the total acreage of the subdivision.

The recreational amenities must be included in the Public Works agreement. Common open space, for other than stormwater management or fire suppression drafting tank purposes, shall be contiguous, accessible, a minimum of 35' wide, may include stormwater pond as an amenity, seeded and landscaped, and appropriate for recreational activities (i.e. graded, non wetlands, etc.)



If a stormwater management facility or fire suppression drafting tank is proposed on an individual lot, then a maintenance access easement must be recorded and clearly indicated on the plat.

4. **Bufferyard Requirements.** Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The Bufferyard may be waived by the Planning Commission if it finds that the essential elements of rural character can be best maintained by preserving the scenic views. The following minimum bufferyards shall be required:
  - a. Bufferyard from collector or arterial roadway shall be bufferyard C.
  - b. Bufferyard along internal streets shall be a row of street trees.
  - c. Bufferyard from contiguous agricultural uses shall be bufferyard A. The bufferyard may be waived if the principal structures are setback 300 feet from the property line.
  
5. **Intra-family Transfer Density Waiver.** One building lot may be created for transfer to a member of the immediate family, regardless of the one unit per acre minor subdivision density provided that:
  - a. The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
  - b. The parcel to be subdivided is less than two (2) acres in size.
  - c. The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
  - d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
  - e. The parcel to be subdivided is not located within the Resource Conservation Area of the Critical Area.
  - f. All of the provisions of this Ordinance and the Cecil County Subdivision Regulations are met.
  
6. The following items, when included in the design of a proposed subdivision, shall provide the necessary elements of rural character:
  - a. Preservation of natural vegetation along streams, steep slopes, woodlands, sensitive soils and non-tidal wetlands.
  - b. Clustering of development with the retention of open space and scenic views along roads and between subdivisions.
  - c. Bufferyards along road frontages when appropriate to buffer adjacent development.

**Section 23. SAR – Southern Agricultural Residential District**

1. The purpose of the Southern Agricultural Residential zone is to encourage the retention and maintenance of agricultural land, agricultural industry, and agriculturally related uses, forestry and compatible rural uses to support the agricultural economy of the County. This zone is intended to prevent the premature urbanization in areas where public facilities can only meet rural needs. Low density residential development is permitted.
2. Maximum Residential Density Provisions. Maximum permitted residential densities shall be as follows:
  - a. One (1) dwelling unit per acre in minor subdivisions.
  - b. One (1) dwelling unit per twenty (20) acres in major subdivisions. Sixty percent open space is required.
  - c. Shared water and sewer facilities are permitted to enhance the clustering of the lots.
3. General Open Space Provisions. A minimum of fifteen (15) percent common open space shall be required for all subdivisions involving ten (10) or more lots, unless:
  - a. A payment has been made to the County's Purchase of Development Rights program in lieu of common open space; or
  - b. The large lot contributes seventy-five (75) percent open space to the subdivision.

For each percentage of open space in excess of sixty (60) percent, the required common open space may be reduced, on a one-to-one basis, up to the seventy-five (75) percent maximum allowed.

If common open space is provided, for other than stormwater management or fire suppression drafting tank purposes, then active/passive recreational amenities must be provided by the developer and be approved by the Planning Commission, unless:

- a. A deed-restricted, active agricultural easement on the large lot has been created for agricultural cultivation or;
- b. A deed-restricted conservation easement on the large lot has been created for forest banking; and
- c. Such active agricultural or conservation easements consist of at least sixty (60) percent of the total acreage of the subdivision.

The recreational amenities must be included in the Public Works agreement. Common open space, for other than stormwater management or fire suppression drafting tank purposes, shall be contiguous, accessible, a minimum of 35' wide, may include stormwater pond as an amenity, seeded and landscaped, and appropriate for recreational activities (i.e. graded, non wetlands, etc.)

If a stormwater management facility or fire suppression drafting tank is proposed on an individual lot, then a maintenance access easement must be recorded and clearly indicated on the plat.

4. **Bufferyard Requirements.** Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The bufferyard may be waived by the Planning Commission if it finds that the essential elements of rural character can be best maintained by preserving the scenic views. The following minimum bufferyards shall be required:
  - a. Bufferyard from collector or arterial road shall be bufferyard C.
  - b. Bufferyard along internal streets shall be a row of street trees.
  - c. Bufferyard from contiguous agricultural uses shall be bufferyard A. The bufferyard may be waived if the principal structures are setback 300 feet from the property line.
  
5. **Intra-family Density Transfer Waiver.** One building lot may be created for transfer to a member of the immediate family, regardless of the one unit per acre minor subdivision density provided that:
  - a. The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
  - b. The parcel to be subdivided is less than two (2) acres in size.
  - c. The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
  - d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
  - e. The parcel to be subdivided is not located within the Resource Conservation Area of the Critical Area.
  - f. All provisions of this Ordinance and the Cecil County Subdivision Regulations are met.
  
6. The following items, when included in the design of a proposed subdivision, shall provide the necessary elements of rural character:
  - a. Preservation of natural vegetation along streams, steep slopes, woodlands, sensitive soils, and non-tidal wetlands.
  - b. Clustering of development with the retention of open space and scenic views along roads and between subdivisions.
  - c. Bufferyards along road frontages when appropriate to buffer adjacent development.

**Part II            Residential Districts**

**Section 24.      RR – Rural Residential District**

1. Purpose. The purpose of the Rural Residential zone is to recognize existing developments and settlements in the rural and waterfront areas of the County and to provide for a manageable amount of rural residential development. It is the intent of this Ordinance to permit uses in the RR zone that do not conflict with the residential character of these areas. Low density residential development is permitted.
2. Maximum Residential Density Provisions. Maximum permitted residential densities shall be as follows:
  - a. One (1) dwelling unit per acre in minor subdivisions.
  - b. One (1) dwelling unit per three (3) acres shall be permitted in major subdivisions. All of the lots except one large lot shall not encumber more than forty (40) percent of the gross acreage of the tract being subdivided.
  - c. Shared water and sewer facilities serving the subdivision are permitted to enhance the clustering of the lots.
3. General Open Space Provisions. A minimum of fifteen (15) percent common open space shall be required for all subdivisions involving ten (10) or more lots, unless:
  - a. A payment has been made to the County's Purchase of Development Rights program in lieu of common open space; or
  - b. The large lot contributes seventy-five (75) percent open space to the subdivision.

For each percentage of open space in excess of sixty (60) percent, the required common open space may be reduced, on a one-to-one basis, up to the seventy-five (75) percent maximum allowed.

If common open space is provided, for other than stormwater management or fire suppression drafting tank purposes, then active/passive recreational amenities must be provided by the developer and be approved by the Planning Commission, unless:

- a. A deed-restricted, active agricultural easement on the large lot has been created for agricultural cultivation or;
- b. A deed-restricted conservation easement on the large lot has been created for forest banking; and
- c. Such active agricultural or conservation easements consist of at least sixty (60) percent of the total acreage of the subdivision.

The recreational amenities must be included in the Public Works agreement. Common open space, for other than stormwater management or fire suppression drafting tank purposes, shall be contiguous, accessible, a minimum of 35' wide, may include stormwater pond as an amenity, seeded and landscaped, and appropriate for recreational activities (i.e. graded, non wetlands, etc.)

If a stormwater management facility or fire suppression drafting tank is proposed on an individual lot, then a maintenance access easement must be recorded and clearly indicated on the plat.

- 4) **Bufferyard Requirements.** Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The Bufferyard may be waived by the Planning Commission if it finds that the essential elements of rural character can be best maintained by preserving the scenic views. The following minimum bufferyards shall be required:
  - a. Bufferyard from collector or arterial road shall be bufferyard C.
  - b. Bufferyard along internal streets shall be a row of street trees.
  - c. Bufferyard from contiguous agricultural uses shall be bufferyard A. The bufferyard may be waived if the principal structures are setback 300 feet from the property line.
  
- 5) **Intra-family Density Transfer Waiver.** One building lot may be created for transfer to a member of the immediate family, regardless of the one unit per acre minor subdivision density requirement provided that:
  - a. The parcel to be subdivided was a lot of record as of the date of the adoption of this Ordinance.
  - b. The parcel to be subdivided is less than two (2) acres in size.
  - c. The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
  - d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
  - e. The parcel to be subdivided is not located in the Resource Conservation Area of the Critical Area.
  - f. All provisions of this Ordinance and the Cecil County Subdivision Regulations are met.
  
- 6) The following items, when included in the design of a proposed subdivision, shall provide the necessary elements of rural character:
  - a. Preservation of natural vegetation along streams, woodlands, steep slopes, sensitive soils, and non-tidal wetlands.
  - b. Clustering of development with the retention of open space and scenic views along roads and between subdivisions.
  - c. Bufferyards along road frontages when appropriate to buffer adjacent development.

**Section 25. LDR - Low Density Residential**

- 1. Purpose.** The purpose of the Low Density residential Zone is to provide an appropriate development area for low to medium density residential development and to act as a transitional zone between rural and more densely developed areas. It is the intent of this zone to permit uses that are consistent with suburban character.
- 2. Maximum Residential Density Provisions.** Maximum permitted residential densities shall be as follows:
  - a.** Without Community Facilities – One (1) dwelling unit per acre.
  - b.** With Community Facilities – Two (2) dwelling units per acre.
- 3. Open Space Provisions.**
  - a.** A minimum of fifteen (15) percent common open space shall be required for all subdivisions involving ten (10) or more lots. This common open space requirement may be waived by the Planning Commission provided a payment in lieu of open space is made to the County's Purchase of Development Rights program.
  - b.** A minimum of fifteen (15) percent common open space for projects using transferred development rights. The open space shall be interspersed throughout the development into small village greens and pocket parks rather than one large mass of open space.
- 4. Bufferyard Requirements.** Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The following minimum bufferyards shall be required:
  - a.** Bufferyard from collector or arterial road shall be bufferyard C.
  - b.** Bufferyard along internal streets shall be a row of street trees.
  - c.** Bufferyard from contiguous agricultural uses shall be bufferyard A. This bufferyard may be waived by the Planning commission if the principal dwellings are setback 300 feet from the boundary line.
- 5. Sidewalks.** Sidewalks along one side of internal streets shall be required.
- 6. Landscaping Requirement.** Landscaping shall be required on major subdivisions approved after the adoption of this Ordinance. A minimum of fifteen (15) percent of the development envelope shall be landscaped.
- 7. Intra-family Density Transfer Waiver.** One building lot may be created for transfer to a member of the immediate family, regardless of the one unit per acre density requirement for subdivisions without community facilities provided that:

- a. The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
- b. The parcel to be subdivided is less than two (2) acres in size.
- c. The proposed subdivision would be considered a minor subdivision according to the Cecil County subdivision regulations.
- d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
- e. The parcel to be subdivided is not located within the Resource Conservation Area of the Critical Area.
- f. All of the provisions of this Ordinance and the Cecil County Subdivision Regulations are met.

**Section 26. ST - Suburban Transition Residential**

- 1. Purpose. The purpose of the Suburban Transition Residential zone is to provide opportunities for medium density growth areas in the periphery of the Growth Area. The intent of this zone is to act as a transitional zone between higher density zones and lower density zones.
- 2. Maximum Density Residential Provisions. Maximum permitted residential densities shall be as follows:
  - a. Without Community Facilities – One (1) dwelling unit per acre.
  - b. With Community Facilities – Four (4) dwelling units per acre.
  - c. With the use of Transferred Development Rights – Six (6) dwelling units per acre.
- 3. Open Space Provisions.
  - a. A minimum of fifteen (15) percent common open space is required for all subdivisions involving ten (10) or more lots. This common open space requirement may be waived by the Planning Commission if a payment in lieu of common open space is made to the County’s Purchase of Development Rights program.
  - b. A minimum of fifteen (15) percent common open space is required for all subdivisions using transferred development rights. The open space shall be interspersed throughout the development into small village greens and pocket parks rather than in one large mass of open space.
- 4. Bufferyard Requirements. Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The following minimum bufferyards shall be required:
  - a. Bufferyard from collector or arterial roads – Bufferyard B.
  - b. Bufferyard from internal streets – row of street trees.

- c. Bufferyard from contiguous agricultural uses shall be Bufferyard A. This bufferyard may be waived by the Planning Commission when the principal structures are setback 300 feet from the boundary line.
5. Sidewalks. Sidewalks along one side of internal streets shall be required.
  6. Landscaping. Landscaping shall be required on all subdivisions approved after the adoption of this Ordinance. A minimum of fifteen (15) percent of the development envelope shall be landscaped.
  7. Intra-family Density Transfer Waiver. One building lot may be created for transfer to a member of the immediate family, regardless of the one unit per acre density requirement for subdivisions without community facilities provided that:
    - a. The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
    - b. The parcel to be subdivided is less than two (2) acres in size.
    - c. The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
    - d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
    - e. The parcel to be subdivided is not located within the Resource Conservation Area of the Critical Area.
    - f. All of the provisions of this Ordinance and the Cecil County Subdivision Regulations are met.

**Section 27. UR - Urbanized Residential**

1. Purpose. The purpose of the Urbanized Residential zone is to create pedestrian friendly areas that provide a transition between areas of high density and areas of middle density. The Urbanized Residential is intended to contain a mix of housing types including single family, duplex, townhouse, and apartment residences.
2. Maximum Residential Density Provisions. Maximum permitted residential densities shall be as follows:
  - a. Without Community facilities – One (1) dwelling unit per acre.
  - b. Single Family with Community facilities – Four (4) dwelling units per acre.
  - c. Duplex/Semi-detached with Community Facilities – Six (6) dwelling units per acre (see Sections 72, 73, and Article XII).
  - d. Townhouse – Eight (8) dwelling units per acre.
  - e. Apartments – Ten (10) units per acre.
  - f. Subdivisions using Transferred Development Rights – Twelve (12) units per acre.



- 3. Open Space Provisions.**
  - a.** A minimum of fifteen (15) percent common open space is required for all subdivisions involving ten (10) or more lots. This common open space requirement may be waived by the Planning Commission if a payment in lieu of open space is made to the County's Purchase of Development Rights program.
  - b.** A minimum of fifteen (15) percent common open space is required for all subdivisions using transferred development rights. The open space shall be interspersed throughout the development into small village greens and pocket parks rather than one large mass of open space.
- 4. Bufferyard Requirements.** Bufferyards shall be required on major subdivisions approved after the adoption of this Ordinance. The following minimum bufferyards shall be required:
  - a.** Bufferyard from collector or arterial road – Bufferyard B.
  - b.** Bufferyard from internal streets – row of street trees.
  - c.** Bufferyard from contiguous agricultural uses shall be Bufferyard A. This bufferyard may be waived by the Planning Commission when the principal structures are setback 300 feet from the boundary line.
- 5. Sidewalks.** Sidewalks along both sides of internal streets shall be required.
- 6. Landscaping.** Landscaping shall be required on all subdivisions approved after the adoption of this Ordinance. A minimum fifteen (15) of the development envelope shall be landscaped.
- 7. Intra-family Density Transfer Waiver.** One building lot may be created for transfer to member of the immediate family, regardless of the one unit per acre density requirement for subdivisions without community facilities provided that:
  - a.** The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
  - b.** The parcel to be subdivided is less than two (2) acres in size.
  - c.** The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
  - d.** The newly created lot cannot be transferred outside of the immediate family for five (5) years.
  - e.** The parcel to be subdivided is not located within the Resource Conservation Area of the Critical Area.
  - f.** All of the provisions of this Ordinance and the Cecil County Subdivision Regulations are met.

**Section 28. RM – High Density Residential**

- 1. Purpose.** The purpose of the High Density Residential zone is to provide opportunities for high density development with a mix of housing types including single family, duplex and semi-detached, townhouse and apartments. Residential developments should provide pedestrian and bicycle linkages between one another and provide a well designed, compact, pedestrian oriented community with usable open space and convenient travel connections between adjacent and nearby developments.
- 2. Maximum Residential Density Provisions.** Maximum permitted residential densities shall be as follows:
  - a.** Without Community Facilities – Two (2) dwelling units per acre.
  - b.** With Community Facilities:
    - (1)** Single Family Units – Six (6) dwelling units per acre.
    - (2)** Duplex and Semi-detached – Ten (10) dwelling units per acre.
    - (3)** Townhouse – Twelve (12) dwelling units per acre.
    - (4)** Apartments – Fourteen (14) dwelling units per acre.
- 3. All developments in the RM zone shall comply with the following:**
  - a.** The development shall be designed to create compact neighborhoods accessible on foot or by bicycle to open space and public uses.
  - b.** The development shall be designed to create a sense of place and provide usable open space.
  - c.** Existing and proposed transit connections should be considered in development design and connections to parks, trails and greenways should be considered.
- 4. Townhouse and Apartments**
  - a.** Townhouse and apartment developments shall be served by community water and sewer facilities.
  - b.** In townhouse and apartment developments, provided all buildings are located to provide access for servicing, fire protection, and off street parking, lots may front on open space, courts or group parking areas.
  - c.** No building shall be constructed closer to any other building on the same lot than a distance equal to the height of the higher of the two buildings. The space between two buildings can be reduced to a distance equal to half of the taller of the two buildings provided that:

- (1) The spacing is approved by the Emergency Services representative to the Technical Advisory Committee.
  - (2) The buildings are oriented side to side, corner to corner.
  - (3) The reduction in the building spacing requirement will allow for additional usable open space to be provided on the site.
  - (4) The buildings are designed in clusters rather than strips.
- d. No apartment building in this zone shall be constructed closer to any property line of the development tract than a distance equal to the height of the building.
  - e. No more than eight (8) townhouse dwelling units shall be contained in a townhouse structure without a setback between structures as specified below.
  - f. The minimum distance between townhouse structures shall be sixty (60) feet if townhouse structures are face to face. The point of measurement shall be the exterior walls of the structures and does not include balconies or other architectural features.
  - g. No townhouse structure shall be closer than twenty (20) feet to any interior roadway or closer than fifteen (15) feet to any off street parking area excluding garages built into an individual townhouse unit.
  - h. Apartment buildings shall be setback at least twenty (20) feet from all parking areas and internal roads.
  - i. Apartment buildings shall be setback fifty (50) feet from any right of way or road widening easement of collector or arterial roads.
  - j. The maximum length of an apartment building shall be 300 feet.
  - k. The minimum lot size for an apartment or townhouse development shall be one (1) acre.
5. Landscaping and Bufferyards. Landscaping and bufferyards shall be required on all developments over ten (10) lots and shall meet the following requirements:
- a. A minimum fifteen (15) percent of the development envelope shall be landscaped.
  - b. A minimum 25 foot bufferyard C shall be provided around the perimeter of the development tract. No parking areas, roadways, or accessory structures shall be permitted in the 25 foot planted buffer.
6. Open Space Provisions. Common open space shall be provided as stated below and shall not include roads, parking areas, or accessory structures unless permitted by the Planning Commission and shall be improved by the developer with recreational amenities as required by the Planning Commission:
- a. Subdivisions involving all single family detached units – 15 percent of gross site area.
  - b. Development involving any other type of dwelling unit – 20 percent of gross site area.
  - c. Development involving transferred development rights – 10 percent of gross site area.

**Section 29. MH – Manufactured Home**

1. Purpose. The purpose of this zone is to provide areas where grouping of manufactured homes may occur in an appropriate, sanitary, and attractive environment including related recreational and service facilities.
2. Maximum Residential Density Provisions:
  - a. Manufactured Home Subdivisions without Community Facilities – Two (2) dwelling units per acre.
  - b. Detached Dwelling Subdivision without Community Facilities – Two (2) dwelling units per acre.
  - c. Manufactured Home Subdivisions with Community Facilities – Four (4) dwelling units per acre.
  - d. Detached Dwelling Subdivision with Community Facilities – Four (4) dwelling units per acre.
  - e. Manufactured Home Parks – Six (6) dwelling units per acre.
3. General Requirements:
  - a. Manufactured Home Parks shall be permitted in accordance with Section 78 of this Ordinance and shall be developed in accordance with the Cecil County Subdivision Regulations.
  - b. Lot, yard, and height requirements for manufactured home subdivisions shall be those as specified for detached dwellings in the ST zone.
  - c. Open space, bufferyard, and landscaping requirements for manufactured home subdivisions shall be those as specified for detached dwellings in the ST zone.
  - d. Manufactured homes on lots not part of a manufactured home park or a manufactured home subdivision shall be limited to one manufactured home per lot, unless a special exception is granted by the Board of Appeals and shall meet the the setbacks as specified for the ST zone.
  - e. Detached dwellings on lots of record or in detached dwelling subdivisions shall meet the requirements of the Table of Lot, Yard and Height for detached dwellings in the ST zone.
4. Special Requirements for Manufactured Homes. All manufactured homes not on permanent foundations shall be provided with skirting which effectively encloses from view the space between the ground and the floor of the manufactured home. Existing manufactured homes not in conformance with this requirement shall effect such conformance within six (6) months of the date of the adoption of this Ordinance.

**Section 30. VR – Village Residential**

- 1.** The purpose of the Village Residential zone is to provide for the protection of the character of the existing villages by permitting limited development consistent with the character of the villages. The essential historic and aesthetic character of villages should be reflected in the development within this district. This classification is meant to be applied in the immediate environs of the existing village and the extent of Village Residential district is to be limited to an appropriate area adjacent to existing village centers.
  
- 2.** It is recognized that residential subdivisions could have a negative impact on the essential land-use characteristics of the existing villages in the County, therefore:
  - a.** All proposed subdivisions in the VR zone will be reviewed by the Technical Advisory Committee and the Planning Commission.
  - b.** Proposed subdivisions in the VR zone must demonstrate that the proposed development is consistent with the existing land use character of the village.
  - c.** The landscape plan for the proposed shall provide a visually harmonious and compatible setting for structures on the same lot and on adjoining or nearby lots and shall blend with the surrounding landscape. Natural appearing landscape forms are strongly encouraged; formal plans and the appearance of straight hedges are discouraged. The scale of the proposed landscaping shall be in proportion to the building. If deemed appropriate the Planning Commission may require additional landscaping than is proposed.
  - d.** Afforestation or reforestation required under the terms of the Cecil County Forest Conservation Regulations for proposed regulated activities within or adjacent to the VR zone shall give priority to the establishment of a greenbelt around the perimeter of the VR zone.
  
- 3.** Lot Size, Lot Dimension, Lot Coverage, Height, Open Space and Yard Requirements. It is the intent of these regulations to permit flexibility in lot, yard, open space and setback requirements and to encourage innovative and creative design in order to meet the objectives of this District. The setback, lot size, lot dimension, lot coverage, height, open space and yard requirements in the Village District may be varied for each individual project by the Planning Commission. In establishing these requirements the Planning Commission shall consider such factors as the proposed intensity of the project, the existing character of the village, and all other County, State and federal requirements.
  
- 4.** Maximum Residential Density Provisions. Maximum permitted residential densities shall be as follows:
  - a.** Without Community Facilities – One (1) dwelling unit per acre.
  - b.** With Community Facilities – Four (4) dwelling units per acre.

5. Landscaping Requirements. Landscaping shall be required on all subdivisions approved after the adoption of this Ordinance. A minimum of twenty (20) percent of the development envelope shall be landscaped.
6. Intra-family Density Transfer Waiver. One building lot may be created for transfer to a member of the immediate family regardless of the one unit per acre density requirements for subdivisions without community facilities provided that:
  - a. The parcel to be subdivided was a lot of record as of the date of adoption of this Ordinance.
  - b. The parcel to be subdivided is less than two (2) acres in size.
  - c. The proposed subdivision would be considered a minor subdivision according to the Cecil County Subdivision Regulations.
  - d. The newly created lot cannot be transferred outside of the immediate family for five (5) years.
  - e. The parcel to be subdivided is not located in the Resource Conservation Area of the Critical Area.
  - f. All of the provisions of this Ordinance and the Cecil County Subdivision Regulations are met.

### **Part III            Mixed Use Districts**

#### **Section 31.        RMU – Residential Mixed Use**

1. Purpose. The purpose of the RMU zone is to provide an opportunity to develop mixed use, transit supportive communities with a residential emphasis along the north side of U.S. Route 40 west of the Town of Elkton. The intent is to create areas that are more varied in their composition with commercial uses on the first floor and residential uses above.
2. Maximum Residential Density Provisions. Maximum residential density provisions shall be as follows:
  - a. Without Community Facilities – One dwelling unit per acre.
  - b. With Community Facilities:
    - (1) Single Family Detached - Four (4) dwelling units per acre.
    - (2) Duplex and Semi-detached – Four (4) dwelling units per acre (see Sections 72, 73, and Article XII).
    - (3) Townhouse – Four (4) dwelling units per acre.
    - (4) Apartments – Eight (8) dwelling units per acre.
    - (5) Planned Unit Development – Ten (10) dwelling units per acre.
    - (6) Subdivisions using Transferred Development Rights – Twelve (12) dwelling units per acre.

- 3.** All developments in the RMU zone shall comply with the following:
  - a.** The development shall be designed to create a combination of residential, commercial, business and open space in a compact neighborhood design that is pedestrian accessible.
  - b.** The proposed uses reinforce each other and the design reduces the reliance on automobile trips.
  - c.** The development shall be designed to create a sense of place and provide useable open space.
  - d.** Existing and proposed transit connections should be considered in development design and connections to parks, trails and greenways should be considered.
  - e.** Townhouse, apartment, duplex and semi-detached developments shall be served by community water and sewer facilities.
  - f.** The minimum lot size for townhouse, apartment, and duplex/semi-detached development shall be one acre.
- 4.** Flexibility in Design. The RMU zone permits flexibility in lot and yard requirements to encourage a creative design without endangering the health, safety, and welfare of residents and employees in and near the RMU zone.
- 5.** Landscaping and Bufferyards. Landscaping and bufferyards shall be required on all development over ten (10) lots and shall meet the following requirements:
  - a.** A minimum of fifteen (15) percent of the development envelope shall be landscaped.
  - b.** A bufferyard C shall be provided around the perimeter of the development tract. No parking areas, roadways, or accessory structures shall be permitted in the bufferyard.
- 6.** Open Space Provisions. Common open space shall be provided as stated below and shall not include roads, parking areas, or accessory structures unless permitted by the Planning Commission and shall be improved with recreational amenities as required by the Planning Commission:
  - a.** Subdivisions involving all detached single family dwelling units – 10 percent of gross site area.
  - b.** Subdivisions involving any other type of dwelling unit – 15 percent of gross site area.
  - c.** Subdivisions involving transferred development rights – 10 percent of gross site area.
- 7.** Business Establishments. Certain business uses shall be permitted in the RMU zone provided:
  - a.** The business use shall be located on the ground floor of the structure in which it is located.

- b. The gross floor area of the business shall not exceed twenty (20) percent of the gross floor area of the structure in which it is located.
- c. The BL and BG portion of the Table of Permissible Uses shall apply to business uses in the RMU zone.
- d. No business approved under these provisions shall have direct access onto a collector or arterial road.

**Section 32. EMU – Employment Mixed Use**

1. Purpose. The purpose of the EMU zone is to provide a location for office, commercial, business, industrial, and residential development along the south side of U.S. Route 40 west of Elkton. The EMU zone provides a framework for development to occur while allowing maximum flexibility to accommodate economic changes in the marketplace.
2. Permissible Uses. The uses that shall be permitted in the EMU zone shall be the same as those permitted (P), permitted with conditions (PC), and permitted as a special exception (SE) in the BG and BI zones and those permitted (P) in the M1 and M2 zones.
3. Flexibility in Design. The EMU zone permits flexibility in lot and yard requirements to encourage a creative design without endangering the health, safety, and welfare of the residents and employees of the EMU zone.
4. Residential Component. The residential component of an EMU development shall be clustered on no more than thirty (30) percent of a development tract's gross acreage. The maximum permitted residential densities shall be as follows:
  - a. Without Community facilities – One dwelling unit per acre.
  - b. With Community Facilities:
    - (1) Single Family Detached – Four (4) dwelling units per acre.
    - (2) Duplex and Semi-detached – Four (4) dwelling units per acre (see Sections 72, 73, and Article XII).
    - (3) Townhouse – Four (4) dwelling units per acre.
    - (4) Apartments – Eight (8) dwelling units per acre .
    - (5) Planned Unit Development – Ten (10) dwelling units per acre
    - (6) Developments using transferred development rights – Twelve (12) dwelling units per acre.
5. Landscaping. A minimum of fifteen (15) percent of the development envelope used for residential or employment uses within the EMU shall be landscaped. Landscape plans may be approved in phases but should follow an overall harmonious theme throughout the EMU zone. Landscaping berms shall be used as a buffer between incompatible uses within and adjacent to the EMU zone.



6. Open Space. Ten (10) percent of the gross site area shall be provided as open space. Said open space shall provide for the following:
  - a. Connections, wherever possible, to existing and planned open space within and adjoining the EMU zone.
  - b. Protection of environmentally sensitive areas.
  - c. Adequate useable land in appropriate locations for parks, recreation facilities and greenways.
  - d. A transition, wherever possible, between different uses within and adjacent to the EMU zone.

**Part IV Mineral Extraction District**

**Section 33. MEA - Mineral Extraction A**

1. Purpose. The purpose of the MEA zone is to protect economically important mineral resources of the County for current and future use; to prevent incompatible development that may directly or indirectly preclude access to the mineral resources until such time that the resource can be removed; and to protect existing land uses adjacent to potential mineral lands from undue harm that may result from mineral extraction activity. This zoning classification shall only apply to certain areas found within the Mineral Extraction District on the Land Use Plan of the 2010 Cecil County Comprehensive Plan. Further, it is intended that this zoning classification only apply to those portions of the Mineral Extraction District where the potential for conflict between adjacent current and future land uses and the mineral extraction activities are minimized.
2. Maximum Residential Density Provisions. Maximum permitted residential densities for minor and major subdivisions shall be one (1) dwelling unit per fifty (50) acres.
3. Lot, yard, and height requirements for residential development in the MEA zone shall be those specified for detached dwellings in the NAR zone.
4. Industrial and/or Commercial uses in the MEA zone:
  - a. Permissible uses. The industrial and/or commercial uses that shall be permitted in the MEA zone shall be the same as those permitted (P) and permitted with conditions (PC) in the BG, BI, M1 and M2 zones. Any conditions that apply to a use in the BG, BI, M1 and M2 zones shall apply. If a use is permitted in both zones, the more restrictive conditions shall apply.
  - b. Each proposed industrial and/or commercial activity in the MEA shall adhere to the conditions of this Ordinance pertaining to major site plans.

- c. Property owners of MEA zoned property affected by this subsection shall demonstrate and certify that the mineral is economically unrecoverable or that the mineral has been recovered.
- d. These provisions shall only apply in the MEA zoned areas affected by this subsection that are contiguous to existing BG, BI, M1, or M2 areas.
- e. No more than twenty (25) percent of MEA contiguous lands may be utilized under these provisions.

**5. Amendments to the MEA Zone.**

- a. The MEA zoning designation of a parcel is an interim designation and shall be amended once the mineral resource is recovered or is found to be economically unrecoverable. Before the zoning classification of a parcel can be changed from the MEA zone, the Comprehensive Plan shall first be amended to change the land use classification of the parcel from the Mineral Extraction District to another land use district. The ultimate land use district of a parcel once the mineral is recovered or found to be economically unrecoverable shall be determined in the context of the type and intensity of adjoining land uses and the availability of infrastructure and services. The ultimate land use of mineral extraction areas will be decided in the context of the comprehensive plan in effect when a change is requested.
- b. Once the land use district of the parcel has been changed, the property owner may propose a rezoning of the parcel to a zoning classification that implements the goals and objectives of the land use classification. Cecil County may propose a change in the zoning classification during a comprehensive rezoning.
- c. All comprehensive plan amendments and zoning classification amendments shall adhere to the procedural requirements as amended in Article 66B.

**Part V Business Districts**

**Section 34. BL – Business Local**

- 1. Purpose. The purpose of the Business Local (BL) zone is to provide for a limited variety of small commercial retail, personal and professional uses and other appropriate related commercial uses, activities, and combinations thereof serving the day to day needs of the adjacent local community without intruding on the general character of the surrounding area. Standards are established compatible with low density residential districts, resulting in similar building bulk and low concentration of vehicular traffic.
- 2. General Requirements:

- a. Any buildings or additions to buildings occupying more than 1,000 square feet of floor space, or any use or expansion of use occupying more than 1,000 square feet of land shall only be approved according to a major site plan.
  - b. Any building or addition to buildings occupying less than 1,000 square feet of floor space, or any use or expansions of use occupying less than 1,000 square feet of land shall only be approved according to a minor site plan.
  - c. The square footage of existing structures and uses shall be considered in determining the need for a site plan.
  - d. No more than three (3) permitted activities, uses, or combinations thereof may occur on any record parcel as of the date of this Ordinance. Further, all permitted commercial activities and uses shall not exceed five thousand (5,000) square feet in gross floor area.
  - e. Outdoor storage or display of goods and/or services or ancillary items shall not be permitted in this zone. Express exemptions occur for nurseries and farmer's markets and those determined by the Zoning Administrator by written consent or policy.
3. Bufferyards and screening requirements. Bufferyards shall be required on all new developments requiring a major site plan after the adoption of this Ordinance. The following shall be considered minimum bufferyard standards for all development:
- a. Bufferyard from collector or arterial roads shall be Bufferyard standard B.
  - b. Bufferyard along internal streets – row of street trees.
4. Landscaping. Landscaping of at least fifteen (15) percent of the development envelope shall be required for new development requiring major site plan approval.

**Section 35. BG – Business General**

1. Purpose. The purpose of the Business General (BG) zone is to provide for commercial uses, activities, and combinations thereof of a general nature including retail, wholesale, and business intended to service an area of several communities. Further, the intent is not to create new strip patterns along the roadways, but to encourage integrated plans with concordant site design to reduce trip lengths.
2. General Requirements:
- a. Any building or additions to buildings occupying more than 1,000 square feet of floor space, or any use or expansions of use occupying more than 1,000 square feet of land shall only be approved according to a major site plan.
  - b. Any building or additions to buildings occupying less than 1,000 square feet of floor space, or any use or expansions of use occupying less than 1,000 square feet of land shall only be approved according to a minor site plan.

- c. The square footage of existing structures and uses shall be considered in determining the need for a site plan.
  - d. Outdoor storage. Outdoor storage or display of goods and/or services or ancillary items shall be permitted in this zone. No storage or parking may occur in required bufferyards.
3. Bufferyards and screening requirements. Bufferyards shall be required on all new development requiring a major site plan after the adoption of this Ordinance. The following shall be considered the minimum bufferyard standards for all development:
- a. Bufferyard from collector or arterial roads shall be bufferyard standard C.
  - b. Bufferyard along internal streets and roadways – row of street trees.
4. Landscaping. Landscaping of at least fifteen (15) percent of the development envelope shall be required for new development requiring major site plan approval.

**Section 36. BI – Business Intensive**

1. Purpose. The purpose of the Business Intensive (BI) zone is to provide for placement of high intensity commercial areas and associated activities, uses and establishments where impacts may be ameliorated. Further, these zones will provide a wide range of business opportunity intended to serve county wide or regional areas. Such activities, uses and establishments shall be located within the High, Medium High, Employment, and Employment Mixed Use Districts as described in the Comprehensive Plan and shall have access from collector or arterial roads.
2. General Requirements:
- a. A major site plan must be submitted for any new development proposed in this zone and be approved by the Cecil County Office of Planning & Zoning.
  - b. In determining whether to approve or disapprove a major site plan in the BI zone, the Office of Planning and Zoning shall consider the following:
    - (1) The impact of the proposed development on existing or planned public facilities;
    - (2) The impact of the operation of the proposal on the surrounding area;
    - (3) The effect and/or influence the proposal might have on the health, safety, and welfare of the residents and employees of the neighborhood.
3. Bufferyards and screening requirements. Bufferyards shall be required on all new development approved after the adoption of this Ordinance. The following shall be considered minimum bufferyard standards for all development:
- a. Bufferyard from collector or arterial roadway shall be bufferyard standard D.

- b. Bufferyard along internal streets and roads – row of street trees.
4. Landscaping. Landscaping of at least fifteen (15) percent of the development envelope shall be required for new development requiring a major site plan.

**Section 37. MB – Maritime Business**

1. Purpose. The purpose of the Maritime Business (MB) zone is to provide for water dependent and water oriented commercial uses, activities, and combinations thereof of a general nature including retail, wholesale, and business permitted in certain areas within the Chesapeake Bay Critical Area. Further, the intent is not to create new strip patterns along waterways and local roadways, but to encourage integrated plans with concordant site design to reduce trip lengths and ameliorate environmental impacts.
2. General Requirements.
- a. All new uses must meet all applicable local, State, and federal requirements, specifically the requirements of this Ordinance, the Cecil County Chesapeake Bay Critical Area Program, and be approved by the Cecil County Office of Planning & Zoning.
  - b. Any buildings or additions to buildings occupying more than 1,000 square feet of floor space, or any use or expansion of use occupying more than 1,000 square feet of land shall only be approved according to a major site plan.
  - c. Any building or addition to buildings occupying less than 1,000 square feet of floor space, or any use or expansion of use occupying less than 1,000 square feet of land shall only be approved according to a minor site plan.
  - d. The square footage of existing structures and uses shall be considered in determining the need for a site plan.
3. Bufferyards and screening requirements. Bufferyards shall be required on all new development approved after the adoption of this Ordinance. The following shall be considered the minimum bufferyard standard for all development:
- a. Bufferyard from collector or arterial roads – row of street trees
  - b. Bufferyard along internal streets – row of street trees
4. Landscaping. Landscaping of at least fifteen (15) percent of the development envelope shall be required for new development requiring a major site plan.
5. Environmental Assessment Requirements. An Environmental Assessment which provides a coherent statement of how the proposed development in the MB zone addresses the goals and objectives of the Cecil County Chesapeake Bay Critical Area program shall be prepared for any proposed new development.

**Part VI Industrial Districts**

**Section 38. M1 – Light Industrial**

1. Purpose. The purpose of the Light Industrial (M1) zone is to provide for the placement of business/professional office complexes, research and development, and certain industrial uses, activities, and establishments that are compatible with commercial and residential uses, activities and establishments. This zone is intended to permit less outwardly intensive uses, activities and establishments. These uses, activities and establishments shall not involve the processing of materials for shipment in bulk form where operations are conducted outside of enclosed buildings.
2. General Requirements.
  - a. A major site plan must be submitted for any new development proposed in this zone and approved by the Cecil County Office of Planning and Zoning.
  - b. Temporary outdoor storage pending shipment is permitted.
  - c. In determining whether to approve or disapprove a major site plan in the M1 zone, the Office of Planning & Zoning shall consider the following:
    - (1) The impact of the proposed development on existing or planned public facilities.
    - (2) The impact of the operation of the proposal on the surrounding area.
    - (3) The effect and/or influence the proposal might have on the health, safety, and welfare of the residents and employees of the neighborhood.
3. Bufferyards and screening requirements. Bufferyards shall be required on all new developments approved after the adoption of this Ordinance. The following shall be considered the minimum bufferyard standards for all development:
  - a. Bufferyard from collector or arterial roads – Bufferyard D.
  - b. Bufferyard along internal streets – row of street trees.
  - c. Bufferyard between the industrial use and any residential zone – Bufferyard D.

**Section 39. M2 – Heavy Industrial**

1. Purpose. The purpose of the Heavy Industrial (M2) zone is to provide for industrial uses of a larger scale and more intensive usage, with areas of uncovered storage. The purpose of the Heavy Industrial zone is to provide for a wide range of business/professional, research and development, manufacturing and processing, and industrial uses, activities and establishments which are compatible with adjacent uses to the extent that any adverse effects on health, safety, welfare, or the environment are avoided.

**2. General Requirements.**

- a. A major site plan must be submitted for any new development proposed in this zone and be approved by the Cecil County Office of Planning & Zoning.
- b. In determining whether to approve or disapprove a major site plan in the M2 zone, the Office of Planning & Zoning shall consider the following:
  - (1) The impact of the proposed development on existing or planned public facilities.
  - (2) The impact of the operation of the proposal on the surrounding area.
  - (3) The effect and/or influence the proposal might have on the health, safety, and welfare of the residents and employees of the neighborhood.

**3. Bufferyards and screening requirements. Bufferyards shall be required on all new development approved after the adoption of this Ordinance. The following shall be considered the minimum bufferyard standards for all development:**

- a. Bufferyard from collector or arterial roads – Bufferyard E.
- b. Bufferyard along internal streets – row of street trees.
- c. Bufferyard between the industrial use and any residential zone – Bufferyard E.

**Part VII Resource Protection and Resource Utilization District**

**Section 40. OS – Open Space**

The purpose of the Open Space (OS) zone is to preserve open areas of the County as areas for development of active or passive outdoor recreation use; protect existing natural resources and areas of scenic, historic, or cultural value; and provide locations for public utilities and other public uses including governmentally operated uses.

**Part VIII Other Zoning Districts**

**Section 41. Floating Zones**

- 1. Purpose. Floating zones are zones that have areas designated for them but are not mapped out in detail at the time of adoption of the Zoning Ordinance. The purpose of the designated floating zones is to permit the mapping of areas for land uses that require land area over the next 20 years. The designated floating zone provides a mechanism for the establishment of the district in appropriate areas, limiting the areas to be zoned and setting conditions that must be met by any development proposal seeking such a designation. Further, the procedure is two stage so that the initial costs are not prohibitive.

2. Designation of Floating Zones. The following Special Zoning Districts are designated as floating zones:
  - a. Growth Allocation District – GA
  - b. Special Growth Allocation District – SGA

The County Council and the Planning Commission find that they are not able to locate these areas with precision in advance and that it is desirable to leave specific locations and conditions for future determination as the County grows and specific needs develop.

**Section 42. Special Overlay Districts**

1. The purpose of a special overlay district is to achieve the preservation or enhancement of a designated geographic area of special and substantial public interest. The overlay district regulations are intended to supplement the regulations of the underlying zoning districts and serve to extend, modify, or alter the regulations imposed by the established zoning classification in said area to accomplish the special public purpose for which the district is established. Such districts established herein may be modified or expanded or new districts may be created, by amendment to this Ordinance.
2. The following are Special Overlay Districts:
  - a. Critical Area District
  - b. Mineral Extraction B (MEB) District
  - c. Floodplain Management District
  - d. Priority Preservation Area (PPA)
  - e. Brownfield Redevelopment District (BR)

**Section 43. Reserved**

**Section 44. Reserved**



## **ARTICLE IV**

## **PERMISSIBLE USES**

### **Section 45. Permitted Uses**

1. For the purpose of this Ordinance, permitted uses are listed for the various zoning districts. Unless the contrary is clear from the context of the list of permitted uses or other regulations contained within this Ordinance, uses not specifically permitted are prohibited.
2. No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:
  - a. Special exceptions, approved by the Board of Appeals.
  - b. Planned Unit Developments approved as a Special Exception.
3. Uses lawfully existing on the effective date of this Ordinance and rendered nonconforming by the provisions thereof shall be subject to the regulations of Article XVIII of this Ordinance.

### **Section 46. Use of the Designations P, SE, SC, and PC in the Table of Permissible Uses**

When used in conjunction with a particular use in the Table of Permissible Uses, the letter "P" means that the use is permissible in the indicated zone with a zoning certificate issued by the Zoning Administrator. The letters "SE" mean a special exception must be obtained. The letters "SC" mean a special exception permit must be obtained from the Board of Appeals and that the proposed use must meet certain conditions for approval. The letters "PC" mean that the use is permissible with conditions.

### **Section 47. No More Than One Principal Structure on a Lot**

1. Every structure hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal structure on a lot unless as provided in 2 below.
2. More than one principal structure may be located on a lot in the following instances, subject to the lot, yard and density requirements and other provisions of this Ordinance:
  - a. Institutional buildings.
  - b. Public or semi-public buildings.
  - c. Multiple family dwellings.
  - d. Commercial or industrial buildings.
  - e. Manufactured Home Parks.

- f. Campgrounds.
- g. Additional principal structures with the approval of the Zoning Administrator.
- h. Condominiums.

**Section 48. Permitted Uses in Yards**

1. The following shall be permitted in the required yards.
  - a. In all yards:
    - (1) Open or unenclosed porches, decks, platforms, terraces, not permanently roofed over, awnings and canopies, provided that none of the above project into the yard more than six (6) feet or one half the setback distance whichever is the lesser.
    - (2) Steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting 24 inches or less into the yard.
    - (3) Recreational, e.g., swing set, sand box, clothes line, etc.
    - (4) Approved freestanding signs, arbors and trellises.
    - (5) Flag poles
    - (6) Fences or walls subject to Section 50.
    - (7) Bay windows projecting three (3) feet or less into the yard.
    - (8) Overhanging eaves and gutters projecting three (3) feet or less into the yard.
  - b. In rear and side yards only:
    - (1) Balconies or outside elements of air conditioning systems, extending not more than four (4) feet into the yard.
    - (2) Breezeways and open porches.
2. Permitted obstructions and detached accessory structures shall not, in the aggregate, occupy more than thirty (30) percent of any required yard.

**Section 49. Accessory Buildings and Uses**

1. Except as established herein, no accessory building shall project beyond a required setback line.
2. Accessory buildings in residential zones which are not part of the main building, although they may be connected by an open breezeway, may be constructed in a side or rear yard provided such accessory building does not occupy more than 30 percent of the area of the required yard and provided it is not located closer than ten (10) feet to a rear lot line nor closer than ten (10) feet to a side lot line.

3. Accessory structures consisting of docks, piers, boathouses, and launching ramps are permitted in the front yard of a water front lot as provided in Section 169 and 198 of this Ordinance.
4. Gas pumps. Filling station pumps and pump islands may occupy the required yards provided, however, that they are not less than thirty (30) feet from street right of way lines.
5. Swimming Pools. Accessory swimming pools may occupy a rear or side yard provided they are not located closer than ten (10) feet to a rear or side lot line. A walk space of at least six (6) feet wide shall be provided between pool walls and protective fences or barrier walls. All in-ground pools shall be enclosed by a fence at least four (4) feet in height. Swimming pools may occupy a front yard of waterfront lots.
6. A satellite dish may occupy a rear or side yard.
7. Dispensing devices (in zones where permitted) with a height of not over six (6) feet, except for automated teller machines, shall be exempt from the established front yard or side yard requirements, but all such dispensing devices shall be set back from the front lot line and the side lot line a distance of not less than 20 feet.
8. The following activities, so long as they are subordinate and incidental, are specifically regarded as accessory to residential principal uses:
  - a. Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.
  - b. Hobbies or recreational activities of a noncommercial nature.
  - c. Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90 day period.
  - d. Private piers and docks may be permitted in residential zones even if no principal use exists on the lot.
9. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed or operational shall not be regarded as accessory to a residential principal use.
10. Storage outside of a substantially enclosed structure of any boat that does not have a valid Maryland use sticker displayed, does not have a valid Maryland certificate number displayed, or does not have a valid number issued by the federal government or another State government displayed, shall not be permitted in any zone unless it is located in a licensed salvage yard.

**Section 50. Fences and Walls**

1. At driveways or other vehicular egress points, no fence or wall shall be erected which obstructs the view of the road from such point of egress.
2. All in-ground pools shall be enclosed by a fence approved by the Cecil County Building Inspector which shall be at least four (4) feet in height.

## **Section 51. Temporary Buildings and Uses for Construction Purposes**

Temporary structures for construction purposes are permitted in any zone only upon issuance of a permit for same by the Building Inspector. The purpose of the structure or use shall be solely to assist or take part in construction activities, or to provide temporary living quarters for a family during construction of a permanent dwelling for that family.

1. The permit may be granted for a specified period of time not more than six (6) months, renewable at the discretion of the Zoning Administrator for additional periods, providing construction of the principal structure has begun, not to exceed six (6) months each period. For single residential lots, the maximum period of any permit, including renewals, shall be two (2) years. For other than single residential lots, renewals may be granted for six (6) month periods provided that construction activity has occurred during the six month period prior to any renewal.
2. Provision shall be made to assure adequate light and air to adjacent properties and to prevent undue harm to adjacent properties in the form of noise, smoke, odors, dust, or safety hazards.
3. For purposes of this regulation, construction is considered to have begun upon completion of the initial inspection by the County Building Inspector.

## **Section 52. Permissible Uses Not Requiring Permits**

Notwithstanding any other provisions of this chapter, no zoning or special-exception permit is necessary for the following uses:

1. Streets.
2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures.
3. Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or county) of the right-of-way.
4. Fences.

## **Section 53. Change in Use**

A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever the change involves a change from one principal use category to another.

## **Section 54. Permissible Uses Tables**

1. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls.
2. Whenever the Table of Permissible Uses contradicts the Specific Supplemental Use Regulations, the Specific Supplemental Use Regulations shall apply.
3. The Chesapeake Bay Critical Area Overlay District. Some uses permitted in any particular zoning classification have been determined to be inappropriate in the Chesapeake Bay Critical Area Overlay District - Resource Conservation Areas (RCAs) within the County. To site or expand these uses, Growth Allocation as described in Article XI, Part I shall be required prior to receiving final approvals. These uses are defined by an asterisk (\*) within the chart. If any particular use or project is determined to be appropriate in the RCA by the Chesapeake Bay Critical Area Commission (CBCAC) in response to a request for clarification forwarded by the County, such use may not require Growth Allocation. Development projects undertaken by Cecil County Government agencies are regulated by COMAR 27.02, adopted by the CBCAC. Under these regulations, the County must certify to the CBCAC that individual government projects are consistent with the Cecil County Critical Area Program.
4. **Table of Permissible Uses (see following)**

**Section 55. Reserved**

**Section 56. Reserved**

**Section 54.4 - Table of Permissible Uses**

USES DESCRIPTION (Article V Citation)	Zones																			
	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS	
<b>1.00.000</b>	<b>AGRICULTURAL USES</b>																			
1.01.000	Agricultural operations, farming																			
1.01.100	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
1.01.110	PC	PC								P	P	P	P	P						
1.01.200	SC	SC								P	P	P	P	P						
1.01.300	PC	PC	PC		PC	PC	PC	PC								PC	PC	PC	PC	
1.01.400	SC	SC														PC	P			
1.01.500	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
1.01.600	PC	PC	PC		PC	PC		PC					P	P	P		P	P		PC
1.02.000	P	P													P		P	P	P	
1.03.000													P	P	P	P	P	P	P	P
1.04.000	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
1.05.000	PC	PC									P	P		P	P					
1.06.000	SC	SC									P	P	P	P	P	P				
1.07.000	SC	SC															PC	PC	PC	
1.08.000	P	P									P	P		P	P			P	P	P
1.09.000	PC	PC	PC		PC	PC	PC				P	P	P	P	P		P	P	P	
1.10.000	SC	SC												PC	PC					
<b>2.00.000</b>	<b>MINERAL EXTRACTION</b>																			
2.00.100																			PC	
2.00.200																	PC	PC		
<b>3.00.000</b>	<b>RESIDENTIAL</b>																			
3.01.000	Dwelling - Single-Family Detached																			
3.01.100	P	P	P	P	P	P	P	P	P	P	P	P	PC	PC	PC	PC	PC	PC	P	
3.01.200	PC	PC	PC	P	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
3.01.300	SC	SC	SC	P	SC	SC	SC				SC	SC	SC	SC		SC	SC	SC		

P = Permitted PC = Permitted with Conditions SC = Special Exception with Conditions SE = Special Exception

\* See Note on last page

USES DESCRIPTION (Article V Citation)	Zones																		
	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS
3.01.400 Dwelling - Tenant House	P	P	P	P	P	P	P	P	P	P									
3.01.500 Dwelling - Guest House - on parcels greater than 50 acres	P	P	P	P	P	P	P	P	P	P									
3.01.600 Dwelling - Guest House - on parcels less than 50 acres	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE									
3.02.000 Dwelling - Single-Family Attached																			
3.02.100 Dwelling - Duplex (Section 72 & Article XII)						PC	PC	PC	P	PC	PC								
3.02.200 Dwelling - Semi-Detached (Section 73 & Article XII)						PC	PC	PC	P	PC	PC								
3.02.300 Dwelling with Accessory Apartment (Section 74)	PC	PC	PC	PC	PC	PC	PC	PC	P	P	P								
3.03.000 Dwelling - Multi-Family									P										
3.03.100 Dwelling - Townhouse (Section 75 and Article XII)								P	P	P	P				PC				
3.03.200 Dwelling - Apartment (Section 76 and Article XII)								P	P	P	P	PC	PC		PC		PC		
3.03.300 Dwelling - Apartment Conversion (Section 77)								SC	P	P									
3.04.000 Manufactured Home Park (Section 78)				PC															
3.05.000 Home Occupation (Section 79)	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	PC	P	P	P	P			SC	
3.06.000 Homes emphasizing special services, treatment, or supervision and Residential Elderly Care																			
3.06.100 Group Homes																			
3.06.110 less than 9 people	P	P	P	P	P	P	P	P	P	P	P							P	
3.06.120 9 through 16 people									P	P	P								
3.06.200 Day Care																			
3.06.210 Day Care Center, Family	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
3.06.220 Day Care Center, Group (Section 80)*	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	PC		PC		
3.06.300 Halfway House (Section 81)	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC	SC	SC				SC
3.06.400 Retirement housing complex (Section 82)	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P	P							
3.07.000 Miscellaneous rooms for rent situations																			
3.07.100 Boarding houses (Section 83)	SC	SC	SC		SC	SC	SC	SC	SC	SC			PC	PC	PC				
3.07.200 Bed and breakfast (Section 84)	SC	SC	SC		SC	SC	SC	SC	SC	SC			P	P		PC			
3.07.300 Conference Center (Section 85)*	SC	SC				SC	SC			P	P		P	P	PC	P	PC		
3.08.000 Hotel (Section 86)	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P		P	P	PC	PC		
3.09.000 Motel (Section 87)*	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P		P	P	PC	PC		

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USES DESCRIPTION (Article V Citation)	Zones																		
	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS
<b>4.00.000</b>	<b>INSTITUTIONAL</b>																		
4.01.000	P	P	P	P	P	P	P	P	P	P	P							P	P
4.01.100	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC						PC	PC		PC
4.01.200										P	P		P	P	PC	P	P		
4.02.000	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
4.03.000	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	P			P	P
4.04.000	SE	SE	SE	SE	SE	SE	SE	SE	SE			P	P	P	P	P	PC	PC	SE
4.05.000	Institutional residence or care facilities																		
4.05.100	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC		P		P	P				
4.05.200	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC				PC	PC				
4.06.000	Cemetery, Crematorium																		
4.06.100	Cemeteries																		
4.06.110	P	P	P	P	P	P	P	P	P		P	P	P	P	P				
4.06.120																			
	SC	SC	SC	SC	SC	SC	SC	SC	SC										
4.06.200	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P	P	P	P		P		
4.06.300													PC	PC	PC		PC	PC	
<b>5.00.000</b>	<b>RECREATION, AMUSEMENT, ENTERTAINMENT</b>																		
5.01.000											P	P	P	P	P	P	PC	PC	
5.01.100											P	P		P	P				
5.01.200	SC	SC			SC								SC	SC					
5.01.300													SC	SC	SC		SC		SC
5.01.400													PC	PC					PC
5.01.500													SC	SC		SC			
5.02.000	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC		P		P	P	P			
5.03.000	P	P	P	P	P	P	P	P	P	P	P	P							P
5.04.000																P			

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USES DESCRIPTION (Article V Citation)		Zones																		
		NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS
5.05.000	Campgrounds, Recreational Vehicle Parks (Section 101)*	SC	SC		SC															
5.06.000	Festivals or Events (Section 102)	SC	SC											PC	PC	PC				PC
5.07.000	Automobile and motorcycle racing tracks (Section 103)*														SC			SC	SC	
5.08.000	Go Cart Track (Section 104)													PC	PC					
5.09.000	Amusement Parks (Section 105)*	SC	SC											PC	PC					
5.10.000	Public Golf Courses, privately owned golf courses, and public and privately owned golf courses approved as part of some residential development (Section 106)*	PC	PC	PC		PC	PC	PC	PC	PC										PC
5.11.000	Golf Driving Range, not part of a golf course (Section 107)													PC	PC					SC
5.12.000	Golf-Miniature										P	P		P	P	P				
5.13.000	Rifle and pistol range, war games, archery ranges or other recreation using weapons, outdoor (Section 108)	SC	SC											SC	SC					SC
5.14.000	Swimming Pool, Commercial (Section 109)*	SC	SC	SC	SC	SC	SC	SC		SC				PC	PC	PC				
<b>6.00.000</b>	<b>EMERGENCY SERVICES</b>																			
6.01.000	Fire Stations without assembly hall	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6.02.000	Fire Station with Assembly Hall (Section 110)	SC	SC	SC	SC	SC	SC	SC	SC		P	P		P	P					P
6.03.000	Rescue squad, ambulance service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6.04.000	Police Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<b>7.00.000</b>	<b>PUBLIC AND SEMI-PUBLIC FACILITIES</b>																			
7.01.000	Post office																			
7.00.100	Local	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
7.00.200	Regional										P		P	P		P	P	P		
7.02.000	Airport (Section 111)*	SC	SC			SC	SC							SC		SC	SC		SC	
7.03.000	Helicopter Facilities (Section 112)*	SC	SC											SC	SC		SC	SC		SC
7.04.000	Prison (Section 113)																SC	SC		SC
7.05.000	Transportation																			
7.05.100	Train station	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P
7.05.200	Bus Depot										P		P	P		P				
7.05.300	Park and Ride Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P

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USES DESCRIPTION (Article V Citation)	Zones																			
	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS	
<b>8.00.000 UTILITIES</b>																				
8.01.000 Neighborhood Essential Service (Section 160)	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
8.02.000 Electric power, gas transmission & telecommunications buildings and structures (Section 114)	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
8.03.000 Overhead Electric Power Transmission	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
8.04.000 Communication Tower (Section 115)	SC	SC		SC	SC	SC	SC		SC	SC	SC		PC	PC		PC	PC		PC	
8.05.000 Public Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<b>9.00.000 COMMERCIAL - SERVICE</b>																				
9.01.000 Service establishments with floor area < 5,000 square feet (Section 116)*				PC						PC	P	P	P	P	P	PC	PC	PC		
9.02.000 Service establishments with floor area > 5,000 square feet (Section 117)											P		P	P	PC					
9.03.000 Office Buildings																				
9.03.100 Office Building, Class A (Section 118)*											P		P	P		P	PC			
9.03.200 Office Building, Class B											P	P	P	P		P				
9.03.300 Office Building, Class C (Section 119)	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P	P	P	P						
9.04.000 Banks, Drive-In (Section 120)												PC	PC	PC						
9.05.000 Business services											P	P	P	P		P				
9.06.000 Health Club (Section 121)*											P	P	P	P	P	P	PC	PC		
9.07.000 * Construction Business or Supplies											P		P	P		P	P			
9.08.000 Funeral Parlors (Section 122)*	SC	SC	SC		SC	SC	SC	SC		P	P	P	P							
9.09.000 Animal Hospital (Section 123)*	SC	SC									PC	PC	PC							
<b>10.00.000 COMMERCIAL - RETAIL AND WHOLESALE</b>																				
10.01.000 Retail Establishments with floor area <5,000 square feet (Section 124)*				PC						PC	P	P	P	P	P	PC	PC	PC		
10.02.000 Retail Establishments with floor area >5,000 square feet (Section 125)											P		P	P	PC					
10.03.000 Adult Bookstore and/or Entertainment Center (Section 126)													SC	SC						

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	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS
10.04.000 Alcoholic Beverage Sales/Liquor Stores (Section 127)											SC	SC	PC	PC	SC				
10.05.000 Antique Shops (Section 128)*	SC	SC	SC	SC	SC	SC	SC	SC		P	P	P	P	P					
10.06.000 Auction Houses (Section 129)*	SC	SC									P		P	P					SC
10.06.100 Industrial Auction House											P					P	P		
10.07.000 Pet Store										P	P	P	P	P					
10.08.000 Manufactured Home sales											P		P	P					
10.09.000 Open-air markets											P		P	P					
10.10.000 Wholesale sales and establishments *											P		P	P					
10.11.000 Shopping Center (Section 130)												SC	SC	SC					
10.12.000 Restaurants																			
10.12.100 Restaurant, Standard (Section 131)*	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	P	P	P	P	PC	PC	PC		
10.12.200 Restaurant, Carry-out, Delivery (Section 132)*											P	P	P	P	PC	PC	PC		
10.12.300 Restaurant, Drive-thru or fast food (Section 133)											PC		PC	PC					
10.12.400 Tavern (Section 134)											PC	PC	PC	PC	PC				
<b>11.00.000 MOTOR VEHICLE-RELATED SALES AND SERVICE OPERATIONS</b>																			
11.01.000 Motor Vehicle Sales											P		P	P					
11.02.000 Motor Vehicle Filling Station (Section 135)											PC	PC	PC	PC					
11.03.000 Motor Vehicle Rental (Section 136)											P		P	P	PC				
11.04.000 Motor Vehicle Repair and Maintenance (Section 137)*											P	PC	P	P		P	P		
11.05.000 Salvage Yard (Section 138)*	SC	SC											SC				PC		
11.06.000 Towing Service (Section 139)*											PC		PC	PC		PC	P		
11.07.000 Travel Trailers (Section 140)	PC	PC	PC																
11.08.000 Storage Trailer and Container (Section 158)	PC	PC	PC	PC	PC	PC	PC	PC	PC	P	P	P	P	P	P	P	P	P	P
11.09.000 Storage Trailer Facility (Section 141)*													PC	PC			PC		
11.10.000 Bus Storage (Section 142)*	SC	SC									P		P	P			P		
11.11.000 Car Wash											P		P	P					
11.12.000 Truck Wash														P		P			
11.13.000 Travel plaza														P					
11.14.000 Truck stop																P			

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USES DESCRIPTION (Article V Citation)	Zones																			
	NAR	SAR	RR	MH	LDR	ST	UR	VR	RM	RMU	EMU	BL	BG	BI	MB	M1	M2	MEA	OS	
<b>12.00.000</b>	<b>INDUSTRIAL</b>																			
12.01.000	Manufacturing																			
12.01.100																	P			
12.01.200	SC	SC												P		P	P			
12.02.000	SE	SE														P	P			
12.03.000																P	P			
12.04.000											P					P	P			
12.05.000	SC	SC															P			
12.06.000	PC	PC	PC	PC	PC	PC	PC	PC	PC							P	P			
12.07.000																	P			
12.08.000																		PC	PC	
12.09.000											P		P	P						
12.10.000 *														P		P	P			
12.11.000											P		P	P		P	P			
12.12.000													PC	PC						
12.13.000																				
12.13.000											PC		PC	PC		PC	PC			
12.14.000*	SC	SC			SC	SC	SC				P			P		P	P			
12.15.000	Waste Management Uses																			
12.15.100																	P		SE	
12.15.200																	SC			
12.15.300																	SC			
12.15.400																	SC			
12.15.500																			SC	
12.15.600																			SC	
12.15.700	SC	SC																SC	SC	
12.16.000	SC	SC											SC			SE	P			
<b>13.00.000</b>	<b>MISCELLANEOUS USE</b>																			
13.01.000	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
13.02.000	SE	SE												P					P	

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\* When these uses are proposed to occur or expand within the Chesapeake Bay Critical Area Resource Conservation Area (RCA) the applicant must apply for, and receive Growth Allocation as described in Article XI, Part I of this Ordinance prior to final approval.

## **ARTICLE V      SPECIFIC SUPPLEMENTARY USE REGULATIONS**

The following specific supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by special exception as indicated in the Table of Permissible Uses.

### **Part I            Agricultural Uses**

#### **Section 57.      Agricultural Equipment Sales    (1.01.200)**

Agricultural machinery and equipment sales may be permitted as a special exception in the NAR and SAR provided:

1. Machinery and equipment shall be stored or parked only within a hard surface area constructed of material that will assure a surface resistant to erosion and adequately treated to prevent dust emission.
2. Signs, product displays, parked vehicles, and other obstructions that would adversely affect visibility at intersections or driveways shall be prohibited.
3. Lighting shall be low level and so arranged as not to reflect or to cause glare into any residential use or zone.
4. When such use abuts a residential zone or use and is not effectively screened by a natural terrain feature, the use shall be screened by a bufferyard meeting the D standard.
5. The Board of Appeals may permit signs as permitted in the BL zone provided all signage is included in the Special Exception.

#### **Section 58.      Animal Husbandry            (1.01.300)**

Animal husbandry shall be permitted in the NAR, SAR, RR, LDR, ST, VR, UR, M1, M2, MEA, and OS zones provided that:

1. The minimum lot size is one acre.
2. Commercial feedlots shall be setback 100 feet from all property lines and 300 feet from any legally existing residences on adjacent lots.
3. Swine farms of 500 or more head, excluding nursing piglets, must comply with and keep up to date both a waste management plan and a nutrient management plan approved by the Natural Resources Conservation Service and University of Maryland Cooperative Extension Service:
  - a. Swine farms of 500 or more head, excluding nursing piglets, must have their feedlots setback 300 feet from all property lines and 600 feet from any legally existing residence on an adjacent lot. The feedlot must be screened by a bufferyard meeting the A standard.

- b. Swine farms of 500 or more head, excluding nursing piglets, must demonstrate that they own or have a lease of at least 3 years on enough acreage to satisfactorily dispose of the waste from said operation in accordance with the approved waste management plan.
- 4. Swine farms in existence prior to June 3, 1997 are exempt from these regulations.

**Section 58B. Poultry CAFOs (Concentrated Animal Feeding Operation)**

Poultry CAFOs shall be permitted in the NAR and SAR zones, and shall be permitted in other zones by special exception, provided that:

1. A minimum vegetative buffer of 25 foot wide, or as recommended by the Cecil County Soil Conservation District, shall be required surrounding the production area, including where poultry are loaded and unloaded, at feed bins, tunnel ventilation fans, compost and manure sheds, consisting of specifically selected trees, tall grasses, and shrubs, planted in appropriate locations in order to capture dust, feathers or odors and minimize emissions in the air, water or soil.
2. Production area shall be setback 100 feet from all property lines and 400 feet from any legally existing residences on adjacent lots.
3. Poultry CAFOs buildings shall be oriented so that tunnel ventilation fans are a minimum of 500 feet from any legally existing residences on adjacent lots, school, place of worship, day care center or nursing home.
4. Poultry CAFOs houses larger than 250,000 square feet shall require approval of the Planning Commission.
5. Any expansion of an existing poultry CAFOs, which was lawfully constructed and in bona fide commercial production of poultry, will be required to adhere to this section.
6. Any proposed poultry CAFOs that fails to have obtained a building permit or occupancy certificate and proceeded under the permit to exercise their rights on the land by a substantial beginning to construct, so that the neighborhood may be advised as to the intended land use, must adhere to the new regulations as set forth herewith.

**Section 59. Slaughterhouses (1.01.400)**

Slaughterhouses may be permitted as a special exception in the NAR and SAR zones and shall be permitted in the M1 zone provided:

1. No slaughterhouses shall be constructed or established within ½ mile of any neighborhood of 20 lots or more in which the average density is one (1) dwelling unit per five (5) acres or more.

2. Stock pens or buildings associated with the slaughterhouse operation must be at least three hundred (300) feet from any right of way and must be at least five hundred (500) feet from any other property line.
3. Proposed slaughterhouses shall meet the following site plan and operational requirements:
  - a. Waste or any decomposable residue from the slaughterhouse operations may not be disposed of by spreading on and/or plowing under on a farm unless the farm contains at least 100 acres and Health Department approval is obtained.
  - b. Adequate measures must be developed for the abatement of offensive and obnoxious odors, dust, smoke, or similar nuisances, to the degree that such odors, dust, smoke, or similar nuisances will be confined within the boundaries of the slaughterhouse site boundaries.
  - c. Design, construction, and operation of the facility must meet or exceed the requirements of all relevant State and federal regulations.
  - d. Waste, by-products, or any decomposable residue which results from the slaughtering of animals must be refrigerated while on the premises.
  - e. There must be provided adequate off street parking and loading and un-loading facilities for customers and employees.
4. If this use is to be located in the Resource Conservation Area of the Chesapeake Bay Critical Area the applicant must apply for and receive Growth Allocation.

**Section 60. Roadside Stand (1.01.500)**

Roadside stands shall be permitted in all zones provided that:

1. Roadside stands are limited to 1,000 square feet.
2. Off street parking is provided at the ratio of one (1) space per 200 square feet of roadside stand with a minimum of two (2) parking spaces.
3. A zoning certificate for the roadside stand is approved by the Office of Planning and Zoning.
4. Roadside stands in the MB zone shall be located outside the Buffer.

5. Roadside stands shall be located at least twenty five (25) feet from the edge of the roadway.

**Section 61. Commercial Stables (1.01.600)**

Commercial stables shall be permitted in the NAR, SAR, RR, LDR, ST, VR and OS zones provided no building shall be located less than 100 feet from the nearest property line.

**Section 62. Topsoil/Mulch/Aggregate Sales (1.05.000)**

Topsoil/mulch/aggregate sales shall be permitted in the NAR and SAR zones provided:

1. The sales are an accessory use to a nursery.
2. The sales area is shown on the site plan for the nursery.

**Section 63. Farmers Market (1.06.000)**

Farmers markets may be permitted as a special exception in the NAR and SAR zones provided:

1. Any permanent structure for the display and sale of locally produced agricultural and fisheries products shall be no larger than 3,000 square feet.
2. Buildings shall maintain the front yard setback for the zone in which it is located.
3. Exits and entrances shall be provided which shall be at least one hundred (100) feet from any intersection on a local road and two hundred (200) feet from all other intersections.
4. A minimum of three (3) off street parking spaces and one (1) space per 300 square feet of building area over 900 square feet shall be provided.
5. A minimum of one (1) self contained privy shall be maintained on the site while operation is in use.
6. No temporary structure shall be permitted for a period exceeding three (3) years, subject to renewal.
7. The farmers market is used for the sale of predominantly locally produced agricultural products.

**Section 64. Livestock Market (1.07.000)**

Livestock markets may be permitted as a special exception in the NAR and SAR zones and shall be permitted in the M1, M2, and MEA zones provided:

1. The minimum lot area is ten (10) acres.
2. Stock pens and main buildings are located at least three hundred (300) feet from any street or highway and at least eight hundred (800) feet from any residence existing at the time of application.



3. Adequate off street parking and off street loading space is provided for customers and employees.
4. Bufferyards meeting the E standard shall be required along all property boundaries.
5. A site plan shall accompany an application for a livestock market.

**Section 65. Greenhouses with On Premises Sales (1.09.000)**

Greenhouses with on premises sales shall be permitted in the NAR, SAR, RR, LDR, ST and UR zones provided:

1. Sales limited to plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors.
2. Sales of products described in 1. above are accessory to the greenhouse operation and the floor area for such sales shall be limited to 3,000 square feet.
3. Greenhouses shall have a minimum setback of twice the height of the building, but in no case less than fifty (50) feet, and storage of all materials which produce odors or attract pests shall be effectively covered.
4. Topsoil/mulch/landscaping aggregates sales shall be permitted provided that they are accessory to the greenhouse and that no more than 100 cubic yards of each product are stockpiled at any time.

**Section 66. Kennels, Commercial (1.10.000)**

Commercial kennels may be permitted as a special exception in the NAR and SAR zones and shall be permitted in the BG and BI zones provided:

1. Minimum acreage – five (5) acres if dogs are outside, two (2) acres if dogs are placed in a soundproof building.
2. Kennels are located at least two hundred (200) feet from any residence on an adjoining property.
3. The proposed use conforms to the Animal Regulations of Cecil County in regard to sanitary practices and animal care and treatment.
4. If this use is to be located in the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area the applicant must apply for and receive growth allocation prior to any approvals.
5. A site plan shall be submitted to and approved by the Department of Land Use and Development Services prior to the issuance of a kennel license. The Department of Land Use and Development Services shall send the site plan to the Animal Care and Control Authority, the Department of Environmental Health, the Department of Permits & Inspections, and the State Highway Administration if on a State Highway, for their review and approval prior to issuing site plan approval.
6. Every kennel operator shall individually license dogs over four (4) months of age and maintain a valid kennel license.
7. Commercial kennels shall maintain a valid business license.

8. Prior to the renewal of a kennel license, the operator of the kennel shall schedule inspections by each agency named in Section 66.5 to ensure compliance with all applicable regulations. Violations will need to be corrected prior to license renewal.

**Part II Mineral Extraction Uses**

**Section 67. Mineral Extraction (2.00.100)**

1. Mineral extraction shall be permitted in the MEA zone provided that any mineral extraction activity in the MEA zone shall only be permitted in accordance with a site plan and shall meet the following requirements:
  - a. No excavation shall take place within 100 feet from any right of way line of any road.
  - b. No excavation shall take place, nor shall the slope of the natural land surface be altered as a result of said excavation, nor shall the storage of materials take place nearer than 100 feet to any property line. This setback shall not apply where the adjoining property is used for mineral extraction.
  - c. All of the Environmental Performance Standards, except the regulations pertaining to steep slopes of this Ordinance are met.
  - d. Operation structures shall not be erected within 200 feet of any property line or within 100 feet of any road. The setback to adjoining property lines shall not apply where the adjoining property is used for mineral extraction or heavy industry.
  - e. A bufferyard meeting the D standard shall be required between any operation structures and the right of way of any road.
  - f. Mineral extraction may be permitted in the MEA zone within the Chesapeake Bay Critical Area provided:
    - (1) No mineral extraction activity takes place within the Buffer.
    - (2) The mineral extraction activity is consistent with the Habitat Protection Program Element of the Cecil County Critical Area Program.
    - (3) The mineral extraction activity is consistent with the Mineral Resources Program Element of the Cecil County Critical Area Program.
    - (4) The requirements of the applicable Critical Area land use management area are met.
    - (5) The applicable requirements of Article XI, Part I are met.
2. Mineral Extraction may be permitted as a special exception in any zoning district in the MEB overlay zone provided:
  - a. Excavation shall not take place within 100 feet from any right of way line of any road or 300 feet from any lawfully permitted residential or institutional building.

- b. Excavation shall not take place, nor the slope of the natural land surface be altered as a result of such excavation, nor shall the storage of materials take place nearer than 100 feet to any property line.
- c. Operation structures shall not be erected nor storage of materials take place within 200 feet of any property line or 100 feet to the right of way line of any road.
- d. All Environmental Performance Standards, except the regulations pertaining to steep slopes, are met.
- e. A bufferyard meeting the D standard shall be required between any operation structures and the right of way of any road.
- f. The use of heavy machinery for refining or processing other than for extracting, crushing, moving, washing, and screening shall be permitted only with a Heavy Industrial (M2) base zone.
- g. New wash plants shall not be located within the Buffer of the Chesapeake Bay Critical Area.
- h. No mineral extraction activity shall take place within the Buffer of the Chesapeake Bay Critical Area.
- i. The mineral extraction activity is consistent with the Habitat Protection Program Element of the Cecil County Critical Area Program.
- j. The mineral extraction activity is consistent with the Mineral Resources Program Element of the Cecil County Critical Area Program.
- k. The requirements of the applicable Critical Area land use management area are met.

**Section 68. Mineral Processing (2.00.200)**

Mineral processing shall be permitted in the MEA and M2 zone provided that:

- 1. Operation structures shall not be erected and storage of materials shall not take place within 200 feet of any property line or 100 feet to the right of way of any road.
- 2. The setback from the property line shall not apply if the adjoining lot is being used for heavy industry or mineral extraction.
- 3. A bufferyard meeting the D standard shall be required between any operation structure and the right of way of any road.

**Part III Residential Uses**

**Section 69. Dwelling – Detached (3.01.100)**

Dwelling – detached shall be permitted in the BL, BG, BI, MB, M1 and M2 zones provided that the dwelling is for the owner, operator, or employee of an on site business.

**Section 70. Dwelling – Manufactured Home – Double Wide (3.01.200)**

1. Double-wide manufactured homes shall be permitted as a principal structure, tenant house, or guest house in the NAR, SAR, RR, LDR, ST, VR, UR, RM, RMU and MEA zones, provided:
  - a. The home has a length not less than 40 feet and a width not less than 24 feet;
  - b. The pitch of the home's roof has a minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction with a minimum four (4) inch roof overhang;
  - c. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
  - d. The home is enclosed by a continuous, permanent masonry foundation, unpierced except for required ventilation and access installed under the home; and
  - e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
2. Double-wide manufactured homes may be permitted as a Special Exception in the EMU, BG, BI, M1, M2 and MEA zones as on-site security provided that the unit is not on a permanent foundation.
3. Double-wide manufactured homes shall be permitted in the EMU, BL, BG, BI, MB, M1, and M2 zones provided that the unit is for the owner/operator or employee of an on-site business and the conditions set forth in 1.a. through 1.e above are met.
4. Double-wide manufactured homes may be permitted as a Special Exception in the NAR and SAR zones for an employee of an agricultural operation conducted on a parcel where the manufactured home is to be located, provided that the home is not on a permanent foundation.
5. Double-wide manufactured homes may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, or UR zones, when not on a permanent foundation, and in the MH zone provided that it is not on a permanent foundation and if a manufactured home presently exists on the property, provided the Board of Appeals finds that a hardship exists involving a member of the immediate family.

**Section 71. Dwelling - Manufactured Home - Single-wide (3.01.300)**

1. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the manufactured home is for an employee of an

agricultural operation conducted on the parcel where the manufactured home is to be located.

2. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.
3. A single-wide manufactured home may be permitted as a Special Exception in the BL, BG, BI, EMU, M1, M2 and MEA zones provided that the manufactured home is for the purposes of providing security for a business or industry conducted on the parcel where the manufactured home is to be located.
4. A single wide manufactured may be permitted as a special exception in the MH zone provided that a manufactured home presently exists on the property and provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For the purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.

**Section 72. Dwelling – Duplex (3.02.200)**

1. Dwelling - duplex shall be permitted in the ST, UR, RMU and EMU zones provided that the units are part of a PUD approved in accordance with Article XII.
2. Dwelling - duplex shall be permitted in the ST and UR zones if served by public sewer.
3. Dwelling - duplex shall be permitted in the VR zone if served by public sewer and if in accordance with Section 30.

**Section 73. Dwelling - Semi-Detached (3.02.200)**

1. Dwelling - semi-detached shall be permitted in the ST, UR, RMU and EMU zones provided that the units are part of a PUD approved in accordance with Article XII.
2. Dwelling - semi-detached shall be permitted in the ST and UR zones if served by public sewer.
3. Dwelling - semi-detached shall be permitted in the VR zone if served by public sewer and if in accordance with Section 28.

**Section 74. Dwelling with Accessory Apartment (3.02.300)**

An accessory apartment in association with a primary residence shall be permitted in the NAR, SAR, RR, LDR, ST, UR, VR, and MH zones provided:

1. An accessory apartment shall only be permitted for occupancy by a member of the immediate family.

2. The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.
3. An accessory apartment may be located either in the principal dwelling unit or in an accessory building.
4. The minimum floor area for an accessory apartment within a principal dwelling shall be three hundred (300) square feet but in no case shall it exceed thirty percent (30%) of the gross floor area of the dwelling in which it is located. For accessory apartments located in accessory buildings, the minimum floor area shall also be three hundred (300) square feet, there shall be no more than two (2) bedrooms in the apartment and the apartment shall not occupy more than 50% of the accessory structure.
5. There shall be no more than one (1) accessory apartment permitted per existing single family dwelling.
6. If an accessory apartment is located in the principal dwelling building, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residential structure and that no external entrance that faces a road or street will be added.
7. Off-street parking shall be provided in accordance with the standards and requirements of Article XIV.

**Section 75. Dwelling - Townhouse (3.03.100)**

1. Dwelling - townhouse shall be permitted in the MB zone provided that
  - a. The density is limited to four (4) units per acre, and
  - b. No more than four (4) townhouses shall be permitted in one (1) building block.

**Section 76. Dwelling - Apartment (3.03.200)**

1. Dwelling - apartment shall be permitted in the BL, BG, and MB zones, provided that:
  - a. The apartments are limited to two (2) units per lot, and
  - b. The apartments are accessory to a permitted use.
2. Dwelling - apartment shall be permitted in the M2 zone provided that:

- a. A maximum of one apartment is provided per lot, and
- b. The apartment is an accessory to a permitted use.

**Section 77. Dwelling - Apartment Conversion (3.03.300)**

Dwelling - apartment conversion may be permitted as a Special Exception in the UR zone, provided that:

- 1. The apartment units are within a dwelling that existed at the time of adoption of this Ordinance.
- 2. The maximum number of apartments shall not exceed the maximum permitted density and shall not in any case exceed four (4) apartment units on any one lot.
- 3. The owner of the dwelling resides permanently within the dwelling. The Special Exception shall terminate six (6) months after the date the owner no longer resides permanently within the dwelling.
- 4. One (1) parking space per apartment unit, and two (2) parking spaces for the primary dwelling are provided on the parcel.
- 5. Parking areas are adequately screened from adjacent lots and roadways.

**Section 78. Manufactured Home Park (3.04.000)**

Manufactured home parks shall be permitted in the MH zone provided:

- 1. Manufactured home parks shall be developed upon property served by water and sewer systems approved by the Health Department.
- 2. Manufactured home parks shall be developed on a tract of land encompassing not less than ten (10) acres in area.
- 3. Each manufactured home site shall measure not less than four thousand (4000) square feet in area.
- 4. No less than fifteen (15) percent of the gross area of a manufactured home park shall be devoted to open space and recreation area. Required open space shall not include roadways and bufferyards.
- 5. Density of manufactured home parks shall not exceed six (6) manufactured home sites per acre.
- 6. Each manufactured home site shall measure not less than fifty (50) feet in width at the setback line.

7. Minimum setbacks on all manufactured home sites shall be fifteen (15) feet front and rear and ten (10) feet on each side.
8. Manufactured home parks shall be surrounded by bufferyards meeting the Bufferyard D standard as shown in Appendix B of this Ordinance.
9. All required bufferyards shall be unoccupied except for utility facilities, identification signs or exits and entrances.
10. Each manufactured home site shall be provided with two (2) off-street parking spaces.
11. In addition to the standards of this Section, all manufactured home parks shall also meet the applicable requirements of the Cecil County Subdivision Regulations.
12. Where an existing manufactured home park is expanded either at the same time or in stages to include the addition of one (1) or more manufactured home sites, the expanded area must conform to the provisions of this Section and the existing portion shall, in lieu of the requirements above, conform to the following:
  - a. General Requirements. Condition of soil ground water level, drainage, and topography shall not create hazards to the property, surrounding area or the health and safety of the occupants.
  - b. Soil and Ground Cover Requirements. Exposed ground surfaces in all parts of the manufactured home development shall be protected with materials capable of preventing soil erosion and elimination of objectionable dust.
  - c. Site Drainage Requirements. The ground surface in all parts of each manufactured home development shall be graded and equipped to drain all surface water in a safe, efficient manner.
  - d. Street System and Car Parking. All manufactured home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Street construction shall be a minimum of two (2) inches blacktop or triple surface treatment with adequate side drainage ditches and grades no greater than 10%. Internal streets shall be of sufficient width to accommodate anticipated traffic.
  - e. Density. Density in the existing portion of any manufactured home development may remain the same or may increase up to a maximum of six (6) units per acre.
  - f. Except as herein provided, design standards as described in the Cecil County Subdivision Regulations, shall be followed.

**Section 79. Home occupations (3.05.000)**



Home occupations may be permitted in the RMU zone and permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, and MEA zones provided that:

1. Home occupations are conducted on the same property as the residence and do not change the residential character of the property.
2. No type of advertisement for the home occupations shall be carried out on the property, except one (1) unlighted sign identifying the home occupation, limited to three (3) square feet in size.
3. No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises.
4. Parking is provided in accordance with Article XIV.
5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable from adjoining properties.

**Section 80. Day Care Center, Group (3.06.220)**

A group day care center shall be permitted in the BI and M1 zones provided the establishment is designed to serve employees of commercial and/or industrial sites in the immediate vicinity.

**Section 81. Halfway House (3.06.300)**

Halfway houses may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, BL, BG, BI and OS zones provided:

1. The site is a minimum of three (3) acres in residential zones.
2. Applicant shall demonstrate the ability to maintain the safety of patients and of the residents in the surrounding neighborhood.
3. Any structure is located at least one hundred feet from any adjacent residential lot.

**Section 82. Retirement Housing Complex (3.06.400)**

A retirement housing complex may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR and MH Zones provided:

1. Density shall not exceed the base density for the zoning district.
2. The minimum area shall be one and one-half acres.
3. There shall be off-street parking as required in Article XIV.

**Section 83. Boarding Houses (3.07.100)**

(amended 5/21/2013)

Boarding houses may be permitted in the NAR, SAR, RR, LDR, ST, VR, UR, and RM zones as a Special Exception and shall be permitted in the BL, BG and BI provided:

1. One off-street parking space shall be provided for each guest room and shall be located at the rear of the site. Further, parking areas shall be 50 feet from any adjacent residentially zoned property and shall be adequately screened.
2. The establishment shall be owner or manager occupied and managed
3. Facilities for dining shall be in the location customarily used by a single family in the structure.
4. No separate kitchen shall be provided.

**Section 84. Bed and Breakfast (3.07.200)**

1. A Bed and Breakfast may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR and RM zones provided:
  - a. One off-street parking space shall be provided for each guest room and shall be located at the rear of the site as much as possible.
  - b. Parking areas shall be adequately screened from adjacent properties.
  - c. The establishment shall be owner or manager occupied and managed.
  - d. The facility may provide food and beverages (both non-alcoholic and alcoholic) to transient guests as breakfast, or in conjunction with weddings, business meetings and conferences.
2. A Bed and Breakfast shall be permitted MB zone provided that new bed and breakfast facilities are located outside of the Buffer.

**Section 85. Conference Centers (3.07.300)**

Conference centers may be permitted as a Special Exception in the NAR, SAR, ST, and UR zones and shall be permitted in the MB and M2 zones provided:

1. In the NAR, SAR, ST and UR zones:
  - a. No more than ten (10) percent of the land may be occupied with buildings.
  - b. All building and parking lots shall be set back from all adjoining property lines, including publicly dedicated streets, roads, and highways, not less than 200 feet, and the maximum height of any building shall be set by the Board of Appeals.
  - c. The land shall have direct access to a public highway of a collector or arterial classification designated on the Official Roadway Classification Map. The major point

of vehicular access to and from the lands shall be provided by this collector or arterial road.

- d. Any retail business conducted on the premises shall be primarily for the use of the guests of the center, and there shall be no entrances directly from the road to such businesses, and no signs or other evidence indicating the existence of such businesses visible from the outside of the building.
  - e. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.
2. In the MB zone the conference center and all associated structures and uses, unless proven to be water dependent, shall be located outside of the Buffer.
  3. In the M2 zone the conference center shall be clearly accessory to a permitted industrial use. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.
  4. In the NAR, SAR, ST, UR, BG, BI, MB, M1 and M2 zones, conference centers may provide food and beverages (both non-alcoholic and alcoholic) to guests of the center attending functions, meetings, conferences and other events at the facility. Service of food and beverages shall only be provided to guests of the center and not to the general public. Conference centers in the NAR, SAR, ST, and UR zones that have received special exception approval previous to the enactment of this language, will need to obtain Board of Appeals approval to provide alcoholic beverages to their guests.
  5. All conference center structures in which alcoholic beverages are being served to guests and areas where alcoholic beverages are being consumed by guests shall be located a minimum of 1,000 feet from any structure on an adjoining parcel that is being used as a hospital, church or school or facility that serve youth.

**Section 86. Hotels (3.08.000)**

1. Hotels shall be permitted in the M1 zone provided:
  - a. The parcel on which the hotel is to be located is part of a business park or industrial park.
  - b. It contains at least fifty (50) rooms, and either a standard restaurant or meeting facilities of at least 5,000 square feet.
  - c. It serves primarily as an accessory use to those businesses in the business/industrial park.

2. Hotels shall be permitted in the MB zone provided the hotels do not exceed 15 rooms.
3. Hotels may be permitted in the NAR, SAR, RR, LDR, ST, UR, VR, RM, and MH zones as a special exception provided:
  - a. Hotels do not exceed ten (10) rooms; and
  - b. Access is directly from a collector or arterial road; and
  - c. A bufferyard meeting the “D” standard of Appendix B is provided between the Hotel, its parking area and all property lines; and
  - d. Lighting shall be designed and controlled so that any light source, including interior of structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.

**Section 87. Motels (3.09.000)**

1. Motels shall be permitted in the MB zone provided the motels do not exceed fifteen rooms.
2. Motels may be permitted in the NAR, SAR, RR, LDR, UR, ST, VR, RM, and MH zones as a special exception provided:
  - a. Motels do not exceed ten (10) rooms; and
  - b. Access is directly from a collector or arterial road;
  - c. A bufferyard meeting the “D” standard of appendix B is provided between the motel, its parking areas and all property lines; and
  - d. All outdoor storage and refuse areas shall be fenced or screened from view; and
  - e. Lighting shall be designed and controlled so that any light source, including interior of structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.

**Part IV Institutional Uses**

**Section 88. Schools, Private (4.01.100)**

Private schools, including elementary and secondary schools, including pre-school, kindergarten, as well as colleges, universities, community colleges, including associated facilities such as dormitories, offices, buildings, athletic fields, etc., shall be permitted in the NAR, SAR, RR, LDR, UR, VR, ST, MH, RM, OS, M1, and M2 zones provided:

1. That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access, and screening requirements, where specified:
  - a. Minimum lot area, street frontage, and lot line setbacks shall be specified in a major site plan of development approved by the Office of Planning and Zoning, provided



7. Building height limit shall be as determined by the Board of Appeals but in no case more than 100 feet.
8. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 92. Nursing Care Facility (4.05.200)**

Nursing care facilities may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH and RM zones and shall be permitted in the BG and BI zones provided that:

1. The minimum lot size is one (1) acre.
2. All structures shall be located at least one hundred (100) feet from adjacent residential property lines.
3. A road front bufferyard meeting the Bufferyard standard C in Appendix B shall be provided.
4. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 93. Cemeteries (4.06.120)**

Cemeteries, not located on church grounds, may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, and UR zones provided a buffer meeting Bufferyard standard C in Appendix B is provided between any burial plot and all lot lines.

**Section 94. Crematorium (4.06.200)**

Crematoriums may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH and RM zones provided:

1. Bufferyards shall be required by the Board of Appeals to adequately separate this use from adjacent uses or properties in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce impacts of noise, odor, or danger from fires or explosions.
2. This use is only permitted when in conjunction with a funeral home or cemetery.
3. Any crematorium shall be located at least two hundred (200) feet from any residential lot line.
4. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

## **Part V Recreation, Amusement, Entertainment Uses**

### **Section 95. Indoor Recreation (5.01.000)**

Indoor recreation, for example bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses shall be permitted in the M1 and M2 zone provided the use is primarily for the benefit of employees working in the area. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

### **Section 96. Theater - Drive-in (5.01.200)**

Theaters - drive-in, open air theaters, and amphitheaters may be permitted as a Special Exception in the NAR, SAR, LDR, BG, and BI zones provided:

1. The picture face of the screen shall be so located that the picture will not be visible from adjacent roads and dwellings.
2. The screen shall be set back not less than two hundred (200) feet from all property lines.
3. Special events, including entertainment and refreshments, are permitted three days in any ninety day period, whether consecutive or not.
4. The access for the use is located on an arterial or collector street and not located on a local street.
5. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.
6. A Bufferyard meeting the C standard of Appendix B shall be provided between the use and adjoining residential developments.
7. The proposed site shall be of sufficient size to accommodate the use without affecting adjacent land uses.
8. Automobile parking areas shall not be closer than one hundred (100) feet to any adjacent residential lot.

### **Section 97. Indoor Rifle or Pistol Ranges (5.01.300)**

Indoor rifle or pistol ranges may be permitted as a Special Exception in the BL, BG, BI, M1 and OS zones provided that such range is constructed in such a manner as to eliminate all danger to people and property from flying projectiles.

**Section 98. Off-Track Betting (5.01.400)**

Off-track betting shall be permitted in the BG, BI, and OS zones provided no such establishment is located nearer than 1,000 feet to any principal structure used as a house of worship, school, hospital, or similar institution for human care.

**Section 99. Coliseums and Stadiums (5.01.500)**

Coliseums and stadiums may be permitted as a Special Exception in the BG, BI and M1 zones provided:

1. The principal vehicular access for the use is located on an arterial street or collector street and is not located on a local street.
2. The use does not draw vehicular traffic to or through local streets adjacent to residential areas.
3. The use is located at least 200 feet from any residential zone.



4. Adequate reservoir space for stacking of vehicles is located at the vehicular entrance, and sufficient vehicular entrances and exits are provided to prevent traffic congestion.
5. Automobile parking spaces are not located within a required setback area and are at least 50 feet from any lot line.

**Section 100. Privately-Owned Outdoor Recreation Facilities (5.02.000)**

Outdoor recreation facilities such as golf and country clubs, swimming or tennis clubs, not constructed as part of a residential development project, may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, and RM zones provided:

1. The provision of food, refreshments, and entertainment may be allowed in connection with such use.
2. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.
3. A bufferyard meeting the C standard in Appendix B shall be provided along adjoining single-family zoning and/or uses not part of the golf course development.
4. Off-street parking and loading areas, golf tees, and maintenance facilities shall be screened by a bufferyard meeting the B standard in Appendix B at a minimum.
5. Driving ranges shall be located at least 300 feet from any residential or commercial property line or right-of-way line of any road.
6. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation (around areas developed for club houses, or other structures, roads and/or buildings) as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 101. Campgrounds and Recreational Vehicle Parks (5.05.000)**

Campgrounds and recreational vehicle parks may be permitted as a Special Exception in the NAR, SAR and MH zones provided:

1. The maximum density does not exceed twenty (20) campsites per acre.
2. Each camp shall make available an adequate potable water supply and a sewage disposal system at such locations and of such construction as may be required by the Cecil County Health Department.
3. Each camp shall provide facilities for sanitary and health purposes in accordance with Health Department requirements.

4. A minimum of thirty (30) percent of the total camp area shall be reserved for open space. For campgrounds in the Critical Area, a minimum of sixty (60) percent open space shall be provided. Open space areas shall not include areas required for individual campsites, roads, or service areas.
5. Garbage and trash collection stations shall be provided in such numbers and at such locations so as to provide for the convenient and sanitary storage and collection of garbage and trash.
6. Each park shall provide such fire protection equipment as may be required by the County or State Fire Marshall.
7. Interior roadways serving individual campsites in campgrounds shall be a minimum of twenty (20) feet in width and interior collector roads shall be a minimum of forty (40) feet in width. All roads shall be constructed of a durable surface to adequately serve all campsites.
8. All sites shall be setback a minimum of fifty (50) feet from adjacent property lines and State and County roads in the MH zone and one hundred (100) feet in the NAR and SAR zones. All sites shall be set back twenty (20) feet from all interior roads.
9. All campgrounds shall be surrounded by a bufferyard meeting the C standard in Appendix B. Existing natural vegetation, if appropriate, may be utilized to satisfy this requirement.
10. Each site shall contain a stabilized parking pad of shell, marl, paving, or other suitable material. No part of any unit placed on a campground site shall be closer than five (5) feet to a site line. Exposed ground surfaces in all parts of the campground shall be paved, or covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
11. There shall be at least three (3) off-street parking spaces designated for each two campground sites. Such parking may be provided in common areas or on individual sites.
12. All campgrounds, including all facilities, roadways, and landscaping thereon shall be maintained in a neat, orderly and attractive appearance.
13. Commercial uses are permitted, but shall be limited to grocery stores and laundry establishments to serve the users of the campground. No such commercial establishment shall be larger than five (5) square feet for each campsite and such establishments shall be shown on the approved site plan.
14. A major site plan shall be submitted to and approved by the Department of Land Use and Development Services in accordance with Section 291.

15. No camp patron shall be permitted to maintain and/or use the camping site or facilities of any camp permitted under this Ordinance for a period longer than one hundred (100) days in succession or for a total of more than 150 days within any one (1) calendar year.
16. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation (around areas for camp buildings, or other structures, roads and/or buildings) as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 102. Festivals or Events (5.06.000)**

Festivals or events may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the BG, BI, MB and OS zones provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. Seasonal business uses shall not exceed a total of 180 days in any 12 consecutive months.
5. Activity areas shall be at least 500 feet from a residential district.
6. A minimum of one parking space shall be provided for every 500 square feet of ground area of the total site.

**Section 103. Automobile and Motorcycle Racing Tracks (5.07.000)**

Automobile and motorcycle racing tracks may be permitted as a Special Exception in the BI, M2 and MEA zones provided:

1. Any lot, parcel, or tract used for this purpose shall not be less than twenty-five (25) acres for motorcycle racing and seventy-five (75) acres for automobile racing.
2. No structure or enclosed racing area shall be located within 500 feet of any residential lot line.
3. Bufferyards meeting the E standard shall be required to screen this use from adjacent uses or properties.
4. The Board of Appeals may determine the hours of operation as appropriate.
5. Access shall be from an arterial or collector road.

6. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 104. Go Cart Track (5.08.000)**

Go cart tracks shall be permitted in the BG and BI zones provided:

1. No structure or enclosed racing area shall be located within 500 feet of any residential lot line.
2. Bufferyards meeting the E standard shall be required to screen this use from adjacent uses or properties.
3. Access shall be from an arterial or collector road.

**Section 105. Amusement Parks (5.09.000)**

Amusement parks may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the BG and BI zones provided:

1. The principal access shall be provided from an arterial or collector road.
2. Separate vehicular entrances and exits shall be provided at least four hundred (400) feet away from any road intersection.
3. No buildings or structures including rides or other apparatus shall be located less than fifty (50) feet from any parcel boundary, or less than two hundred (200) feet from any adjacent residential lot.
4. No automobile parking space shall be located within any required setback area, nor within fifty (50) feet of any adjacent residential lot.
5. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 106. Public Golf Courses, privately owned Golf Courses, and public and privately owned golf courses approved as part of some residential development (5.10.000)**

Public golf courses and privately owned golf courses approved as part of some residential development shall be permitted in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, and OS zones provided:

1. Centerline of fairway shall be setback two hundred (200) feet from adjacent property and/or lot lines. The setback can be reduced if vegetative buffering is provided on the golf course property.
2. Tees shall have a setback of one hundred (100) feet from adjacent property and/or lot lines and greens shall have a setback of one hundred seventy five (175) feet from adjacent property and/or lot lines. The setbacks can be reduced if vegetative buffering is provided on the golf course property.
3. A landscape plan shall be required for a vegetative screen along the perimeter of the course. The vegetative screen may have vista breaks that do not compromise the safety of the adjoining lots. Existing vegetation can be used to satisfy this requirement.
4. Dwellings on lots approved as part of the development proposal shall be setback a minimum of fifty (50) feet from the nearest lot line adjacent to the fairways, tees and greens unless a vegetative screen is provided. If a vegetative screen is provided, the fifty (50) foot setback shall not be required. The front, rear or side setbacks shall be those as required by the zoning district.
5. Driving ranges shall be located three hundred (300) feet from any property line or right of way unless perpendicular to and hitting away from said lines.
6. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.
7. The provision of food, refreshment and entertainment shall be permitted in connection with said use. Such facilities shall not be open to the general public unless it is commercially zoned.
8. Off street parking and loading areas shall be screened with a Bufferyard meeting the B standard of Appendix B.
9. Clubhouse and accessory parking areas shall not have access directly from the interior streets of the subdivision to the extent possible.
10. Projects that have received final approval prior to the adoption of these regulations shall be exempt from these regulations.

**Section 107. Golf Driving Ranges, not part of a golf course (5.11.000)**

Golf driving ranges not part of a golf course shall be permitted in the BG and BI zones and may be permitted as a Special Exception in the OS zone, provided the driving range shall be located at least 300 feet from any property line or right-of-way line of any road unless perpendicular to, and hitting away from said lines.

**Section 108. Rifle and Pistol Ranges, War Games, Archery Ranges, Skeet Shooting Ranges, or Other Recreational Weapons, Outdoor (5.13.000)**

Outdoor rifle and pistol ranges, war games, archery ranges, skeet shooting ranges, or other recreational weapons ranges may be permitted as a Special Exception in the NAR, SAR, BG, BI and OS zones provided:

1. Such use shall not be located nearer than 1,000 feet to the boundary of any residential, commercial or industrial zone or nearer than 1,000 feet to any residence.
2. Ranges shall be designed to insure the safety of users and passers-by.
3. The Board of Appeals may determine the hours of operation as appropriate.

**Section 109. Swimming Pool, Commercial (5.14.000)**

A commercial swimming pool, including accessory buildings, shall be permitted in the BG, BI and MB zones, and may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, UR, MH and RM zones provided:

1. The minimum area shall be one acre.
2. A commercial swimming pool in the MB zone shall be accessory to a marina.
3. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Part VI Emergency Services Uses**

**Section 110. Fire Stations with Assembly Hall (6.02.000)**

Fire stations with assembly hall may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR and MH zones provided:

1. The proposed site is large enough to accommodate peak parking demand.
2. That such use will not adversely affect the present character or future development of the surrounding residential community.

**Part VII Public and Semi-public Facilities**

**Section 111. Airports (7.02.000)**

Airports may be permitted as a Special Exception in the NAR, SAR, LDR, ST, BI, M1, M2, and OS zones provided:

1. A satisfactory airspace analysis by the Maryland Aviation Administration (MAA) and Federal Aviation Administration (FAA) for operation under visual flight rules shall be submitted with the permit application.
2. Landing areas for rotary wing aircraft shall be designed to comply with the Airport Design Guide of the FAA and MAA.
3. Each landing, takeoff and utility area used by self-powered aircraft is provided with a dustproof surface.
4. Each structure or area used for servicing or storing aircraft is located at least:
  - a. 200 feet from any residential property line.
  - b. 1,000 feet from any public or private institution.
5. Parking of vehicles is not permitted within 100 feet of a property line.
6. Appropriate airport accessory uses such as restaurants, snack bars, automobile rental agencies, airline business offices, and service facilities, but not manufacturing uses, may be permitted within the terminal building.
7. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 112. Helicopter Facilities (7.03.000)**

Helicopter facilities may be permitted as a Special Exception in the NAR, SAR, BG, BI, M1, M2 and OS zones provided:

1. The facility meets the standards of the Federal Aviation Agency and the Maryland Aviation Administration.
2. The landing areas to be used by helicopters are provided with a dustproof surface.
3. Parking of vehicles is not permitted within the setback requirements for the district in which the facility is located.
4. In all heliports, the housing and repair of helicopters and all structures or facilities used to house and repair helicopters are located at least:
  - a. 50 feet from any property line, and
  - b. 200 feet from any dwelling or public or private institution.

5. Each heliport facility is surrounded by a sturdy and well-constructed fence or by dense plantings at least six feet in height, with a suitable gate effectively controlling access to the area.
6. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 113. Prisons (7.04.000)**

Prisons may be permitted as a Special Exception in the M1, M2 and OS zones provided:

1. The applicant shall demonstrate the ability to maintain the safety of the residents in the surrounding neighborhood.
2. Bufferyards meeting the E standard in Appendix B shall be provided as required along the perimeter of the property.

**Part VIII Utilities**

**Section 114. Electric Power, Gas Transmission and Telecommunications Buildings and Structures (8.02.000)**

Electric power, gas transmission and telecommunications buildings and structures, including substations, shall be permitted in all zones provided:

1. Public utility buildings, whenever practicable, shall have the exterior appearance of residential buildings when in a residential zone and shall have suitable landscaping, screen planting, and fencing.
2. Examples of electric power, gas transmission and telecommunication buildings and structures are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices.

**Section 115. Communication Towers (8.04.000)**

Communication towers may be permitted as a Special Exception in the NAR, SAR, LDR, ST, UR, MH, RM, RMU, and EMU zones and shall be permitted in the BG, BI, OS, M1 and M2 zones provided:

1. Except in the NAR & SAR zones, the proposed tower shall have a setback of one foot from all property lines for every foot of height of the tower and associated antennae. Upon a showing by the applicant that the proposed tower is structurally engineered in such a manner that a reduced fall zone is adequate, the Board of Appeals may reduce the setback to no less than one half (1/2) the height of the proposed tower. Such a showing must be based on the written testimony of a structural engineer or other qualified professional.



In the NAR & SAR zones, the proposed tower shall have a setback of three times the height of the tower from the nearest principal roadway and a setback of one foot from all other property lines for every foot of height of the tower. New towers shall be built at the lowest height possible that will still allow for co-location and will not necessitate the construction of additional towers to achieve the same service coverage objectives.

2. The applicant shall demonstrate that a diligent effort has been made to locate the proposed communication facility on an existing structure or in a non-residential zoning district, and that due to valid considerations, including physical constraints and economic or technical feasibility, no other appropriate location is available. An alternatives analysis prepared by the applicant shall address the following:
  - a. all reasonably feasible alternative locations or facilities that would provide the proposed communication service;
  - b. an analysis indicating whether an existing facility can be structurally modified to accommodate the applicant's proposed use and coverage;
  - c. the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area;
  - d. the rationale for the selection of the proposed site in view of relative merits of any feasible alternatives;
  - e. a system design plan that shall include:
    - i. radio frequency parameters;
    - ii. tower height;
    - iii. number of antennas that the proposed tower can accommodate at capacity;
    - iv. radio frequency output; and
    - v. effective radiated power and azimuth antenna type.
  - f. demonstration of a good faith effort to co-locate with other carriers including a survey of all existing structures that may be reasonable for co-location and contacts with other service providers in the County.

The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, an evaluation of existing structures taller than 50 feet, and communication towers, electrical transmission towers, and water towers within a one-half mile radius of the proposed tower, aerial and ground photographs of the site and surrounding areas, elevation drawings of all equipment and storage buildings on the property, and the color and building materials to be used on the proposed telecommunication facility.

3. New communication towers shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons. Unless co-location has been determined to be infeasible, the Plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.

4. Where feasible, the tower shall be situated within or adjacent to mature tree growth and understory vegetation that provides an effective year round visual buffer and should only be considered elsewhere on the property when technical or aesthetic reasons indicate there are no other preferable locations. Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties. Ground level equipment buildings shall be constructed of either masonry or wood with either wood, vinyl, reinforced concrete, or other good quality siding material.
5. Communication Towers shall be gray or a similar color that minimizes visibility, unless a different color is required by the Federal Communications Commission or the Federal Aviation Administration.
6. No signals or lights shall be permitted on a tower unless required by the Federal Communications Commission or the Federal Aviation Administration.
7. A Communication Tower that is no longer in use shall be removed from the site within six (6) months of the date that the uses cease.

#### **Part IX Commercial Service Uses**

##### **Section 116. Commercial Service Establishments Less Than 5,000 Square Feet (9.01.000)**

1. Commercial service establishments less than 5,000 square feet in floor area shall be permitted in the MH zone provided:
  - a. The commercial service establishment is located in a manufactured home park.
  - b. The floor space does not exceed 10 square feet per permitted manufactured home.
  - c. No establishment shall be larger than 1,000 square feet.
  - d. The BL zone portion of the Table of Permissible Uses shall apply to business uses in a manufactured home park.
  - e. The number and location of such establishments is shown on the approved plat or site plan.
  - f. The requirements of the BL zone shall apply to business uses in a manufactured home park.
2. Commercial service establishments less than 5,000 square feet in floor area shall be permitted in the RM zone provided:
  - a. The gross floor area of such establishments does not exceed ten (10) square feet for every dwelling unit approved in the development and no individual establishment shall exceed 1,000 square feet.

- b. Business uses shall only be approved under these provisions for developments approved after the adoption of this Ordinance.
  - c. The BL zone portion of the Table of Permissible Uses shall apply to business uses in a development in the RM zone.
  - d. The requirements of the BL zone shall apply to business uses in a development in the RM zone.
  - e. No business establishment in the RM zone shall have direct access onto a major collector roadway or arterial roadway as defined on the Official Cecil County Roadway Classification Map.
  - f. Where such business uses are located in apartment buildings, they shall be limited to the first floor of such buildings, and shall not be permitted in more than one building on the development tract.
  - g. Business Establishment Phasing
    - (1) Any portions or parcels of a development in the RM zone designated for business uses shall be shown as such on the site plan to be reviewed.
    - (2) No business establishment shall be permitted to operate until twenty-five percent (25%) of the residential units are constructed.
3. Commercial service establishments less than 5,000 square feet shall be permitted in the MB zone provided the commercial establishments are clearly accessory to a permitted use and the uses are located outside of the Buffer.
4. Commercial service establishments less than 5,000 square feet shall be permitted in the M1 and M2 zones provided that:
- a. The establishments are designed to serve employees of industrial sites in the immediate vicinity.
  - b. The commercial establishments are clearly accessory to a permitted use.
  - c. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 117. Commercial Service Establishments Greater than 5,000 square feet (9.02.000)**

Commercial service establishments greater than 5,000 square feet shall be permitted in the MB zone provided that the commercial service is associated with watercraft.

**Section 118. Office Building, Class A (9.03.100)**

Office buildings, Class A shall be permitted in the M2 zone provided it is accessory to a permitted use. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 119. Office Building, Class C (9.03.300)**

Office Buildings, Class C, may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH and RM zones provided:

1. The maximum floor area for office use is less than 3,000 square feet.
2. The maximum sign area shall be three (3) square feet.

**Section 120. Banks, Drive-in (9.04.000)**

Drive-in banks shall be permitted in the BL, BG and BI zones provided:

1. Entrances and exits to drive-in banks shall be located at least fifty (50) feet from adjacent intersections.
2. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to buildings or to off-street parking spaces otherwise required on the site.
3. Adequate spaces for stacking (line-up) at drive through facilities shall be provided.
4. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.

**Section 121. Health Club (9.06.000)**

Health clubs shall be permitted in the M1 and M2 zones, provided:

1. The Health Club is designed to serve employees of industrial establishments in the immediate vicinity.
2. The health club is clearly accessory to a permitted use.

**Section 122. Funeral Parlors (9.08.000)**

Funeral parlors or undertaking establishments may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, and UR zones provided:

1. No cremation will occur on site.

2. The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards of the community.
3. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 123. Animal Hospitals (9.09.000)**

Animal hospitals may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the EMU, BL, and BG zones provided:

1. Outdoor animal boarding places shall be located at least 100 feet from any street or the nearest property line, and
2. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Part X Commercial Retail and Wholesale Uses**

**Section 124. Commercial Retail Establishments Less Than 5,000 Square Feet (10.01.000)**

1. Commercial retail establishments less than 5,000 square feet in floor area shall be permitted in the MH zone provided:
  - a. The commercial retail establishment is located in a manufactured home park.
  - b. The floor space does not exceed 10 square feet per permitted manufactured home unit.
  - c. No establishment shall be larger than 1,000 square feet.
  - d. The BL zone portion of the Table of Permissible Uses shall apply to business uses in a manufactured home park.
  - e. The number and location of such establishments is shown on the approved plat or site plan.
  - f. The requirements of the BL zone shall apply to business uses in the manufactured home park.
2. Commercial retail establishments, less than 5,000 square feet in floor area shall be permitted in the RM zone provided:

- a. The gross floor area of such establishments does not exceed ten (10) square feet for every dwelling unit approved in the development and no individual establishment shall be larger than 1,000 square feet.
  - b. Retail uses shall only be approved under these provisions for developments approved after the adoption of this Ordinance.
  - c. The BL zone portion of the Table of Permissible Uses shall apply to business uses in a development in the RM zone.
  - d. Where such business uses are located in apartment buildings, they shall be limited to the first floor of such buildings, and shall not be permitted in more than one building on the development tract.
  - e. The requirements of the BL zone shall apply to business uses in the RM zone.
  - f. The location of such establishments is shown on the approved plat or site plan.
  - g. Business Establishment Phasing
    - (1) Any portions or parcels of a development in the RM zone designated for business uses shall be shown as such on the site plan to be reviewed.
    - (2) No business establishment shall be permitted to operate until twenty-five percent (25%) of the residential units are constructed.
- 3. Commercial retail establishments less than 5,000 square feet shall be permitted in the MB zone provided the commercial establishments are clearly accessory to a permitted use and are located outside of the Buffer.
  - 4. Commercial retail establishments less than 5,000 square feet shall be permitted in the M1 and M2 zones provided that:
    - a. The establishments are designed to serve employees of industrial sites in the immediate vicinity.
    - b. The commercial establishments are clearly accessory to a permitted use.

**Section 125. Commercial Retail Establishments Greater than 5,000 square feet (10.02.000)**

Commercial retail establishments greater than 5,000 square feet shall be permitted in the MB zone provided that the commercial retail is associated with watercraft.

**Section 126. Adult Bookstore and/or Entertainment Center (10.03.000)**

Adult bookstore and/or entertainment center may be permitted as a Special Exception in the BG and BI zones provided that no such establishment shall be nearer than 1,500 feet to any principal structure used as a house of worship, school, hospital, or similar institution for human care.

**Section 127. Alcoholic Beverage Sales/Liquor Store (10.04.000)**

Alcoholic beverage sales and/or liquor stores may be permitted as a Special Exception in the BL and MB zones and shall be permitted in the BG and BI zones provided that no such establishment is located nearer than 1,000 feet to any principal structure used as a hospital, house of worship, or school.

**Section 128. Antique Shops (10.05.000)**

Antique shops may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR and MH zones in an existing building or part of an existing building provided:

1. The original character of the building be maintained.
2. Signs shall be limited to an identification sign with a maximum area of three (3) square feet.

**Section 129. Auction Houses (10.06.000)**

Auction houses may be permitted as a Special Exception in the NAR, SAR and OS zones provided that the products offered at auction are limited to farm animals, agricultural products and/or agricultural machinery. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 130. Shopping Center (10.11.000)**

Shopping centers shall be permitted in the BL, BG and BI zones, provided that:

1. A traffic impact study is submitted with the site plan for the shopping center.
2. The shopping center will provide establishments of integrated and harmonious design, together with adequate and properly arranged traffic and parking activities and landscaping which will be attractive, efficient, convenient, pleasant, and safe, and which will fit harmoniously into, and will have no adverse impact upon the adjoining and surrounding development.

**Section 131. Restaurants, Standard (10.12.100)**

1. Standard restaurants shall be permitted in the M1 and M2 zones provided the restaurant is designed to serve employees of industrial establishments in the immediate vicinity. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

2. Standard Restaurants shall be permitted in the MB zone provided:
  - a. When such use abuts a residential zone or institutional premises the use shall be screened by a bufferyard meeting the C standard in Appendix B.
  - b. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.
  - c. It shall be located outside of the Buffer.
  
3. Standard restaurants may be permitted in the NAR, SAR, RR, LDR, ST, UR, VR, MH, RM, and RMU zones as a special exception provided:
  - a. Access is directly from a collector or arterial road; and
  - b. A bufferyard meeting the D standard of Appendix B is provided between the restaurant, its parking area, and all property lines; and
  - c. All outdoor storage and refuse areas shall be fenced or screened from view; and
  - d. Lighting shall be designed and controlled so that any light source, including interior of structure, shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.

**Section 132. Restaurants, Carry-Out/Delivery (10.12.200)**

1. Carry-out/delivery Restaurants shall be permitted in the M1 and M2 zones, provided the restaurant is designed to serve employees of industrial establishments in the immediate vicinity. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.
  
2. Carry-out/delivery Restaurants shall be permitted in the MB zone if the restaurant is an accessory use in a marina and provided:
  - a. When such use abuts a residential zone or institutional premises the use shall be screened by a bufferyard meeting the D standard in Appendix B.
  - b. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.
  - c. It shall be located outside of the Buffer.

**Section 133. Restaurants, Drive-thru or Fast Food (10.12.300)**

Drive-in/drive thru restaurants shall be permitted in the BG and BI zones provided:

1. Not more than two such establishments shall be located at an intersection and ingress and egress to such establishments shall be located at least 150 feet from an intersection.



2. The ingress and egress of such establishments to or from a collector or arterial highway shall not be located nearer than 1,000 feet to each other in any direction, except at intersections and except where such establishments may be on opposite sides of a divided highway.
3. When such use abuts a residential zone or institutional premises the use shall be screened by a bufferyard meeting the D standard in Appendix B.
4. Drive through lanes shall be marked with distinctive pavement markings and/or special striping.
5. Adequate spaces for stacking (line-up) at drive through facilities shall be provided.
6. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.

**Section 134. Taverns (10.12.400)**

Taverns shall be permitted in the BL, BG, BI and MB zones provided that no such establishment is located nearer than 1,000 feet to any principal structure used as a hospital, church, or school and shall be accessory to a standard restaurant in the MB zone and must be located outside the Buffer insofar as possible.

**Part XI Motor Vehicle Related Sales and Service Uses**

**Section 135. Motor Vehicle Filling Station (11.02.000)**

Motor vehicle filling stations shall be permitted in the BL, BG and BI zones, provided:

1. Pump location:
  - a. Each pump shall be at least 30 feet from any street line and 50 feet from any residential property line.
  - b. No canopy over a pump island shall project within 15 feet from a street line.
2. In the BL zone the gasoline sales shall be accessory to a permitted use and no service, repair or storage of motor vehicles shall take place on the premises.
3. Lighting shall be designed and controlled so that any light source, including interior of a structure, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine into residential structures.

4. Any outdoor storage or refuse area shall be fenced or screened from view and must be approved as to location and design.
5. The establishment shall provide a minimum of three (3) spaces for each grease rack or working bay, plus one (1) space for each employee on duty, plus a separate parking space for each accessory vehicle, such as tow trucks.
6. A motor vehicle filling station shall only be permitted if all adjoining properties adjacent to the filling station are served by public water.

**Section 136. Motor Vehicle Rental (11.03.000)**

Motor vehicle rentals shall be permitted in the MB zone provided:

1. The rentals are accessory to a marina, and
2. The number of motor vehicles located in a marina and offered for rent is limited to five (5).

**Section 137. Motor Vehicle Repair and Maintenance (11.04.000)**

Motor vehicle repair and service shops shall be permitted in the BL zone provided that:

1. No abandoned vehicles are kept on the property.
2. No more than five (5) vehicles shall be kept outdoors at any one time pending repair unless fully screened from the road and adjacent properties.
3. No auto bodywork or painting shall be permitted.

**Section 138. Salvage Yards (11.05.000)**

Salvage yards may be permitted as a Special Exception in the NAR, SAR and BG zones and shall be permitted in the M2 zone provided:

1. The parcel on which the use is situated shall be enclosed with a continuous fence or evergreen shrubbery screen, as approved by the Department of Land Use and Development Services. Existing evergreen vegetation may be used as the shrubbery screen, provided that no activities of said salvage yard are visible from any roadway or adjacent property.
2. In the NAR, SAR, and M2 zones, no inoperable or operable vehicles or vehicle parts shall be located outside the fence or evergreen shrubbery screen.
3. In the BG zone no inoperable vehicles or vehicle parts shall be located outside the fence or evergreen shrubbery screen. For the purposes of this section an operable vehicle is able to be driven off the lot under its own power.
4. There shall be no stacking of vehicles, one upon the other, and any materials shall not be stacked or piled so as to reach a height of six (6) feet or greater.
5. Burning of junk shall only be permitted in the M2 zone provided that the applicable Health Department permits are received.

6. No materials or refuse shall be collected, accumulated or stored within twenty-five (25) feet of any lot line or right-of-way line. All materials or refuse shall be located within the fence or evergreen shrubbery screen.
7. All fluids (oil, gasoline, transmission fluid, windshield washer fluids, etc.) and batteries from the salvaged vehicles shall be removed from said vehicles and disposed or recycled according to the Maryland Department of the Environment prior to dismantling and/or storage of the vehicle.
8. New salvage yards shall be permitted on parcels ten (10) acres or larger. Existing salvage yards on parcels less than ten (10) acres shall be considered a non-conforming use.
9. New salvage yards shall be required to submit a Site Plan in accordance with Section 291.
10. Expansions of existing salvage yards shall be required to submit a Site Plan in accordance with Section 291.
11. **Salvage Yard License Required.** The proprietor of any proposed or existing salvage yards shall be required to obtain a Salvage Yard License from the Department of Land Use and Development Services. Salvage Yard Licenses shall be renewed every two (2) years. Salvage Yard Licenses issued under the previous Zoning Ordinance shall be renewed within one year of the date of the last renewal and every two (2) years thereafter. Salvage Yard Licenses shall not be issued to those salvage yards not in compliance with items 1-7 above. Salvage Yard Licenses may be revoked by the Department of Land Use and Development Services if the salvage yard is not in compliance with items 1-7 above. Salvage yards shall not operate without a valid Salvage Yard License and any salvage yard operating as such shall be issued a Stop Work Order by the Department of Land Use and Development Services. In determining whether or not to issue a Salvage Yard License, the Department of Land Use and Development Services may require any information as necessary from the Salvage Yard proprietor to determine compliance with this Ordinance. Inspectors from the Department of Land Use and Development Services may inspect any salvage yard at any reasonable time to ensure compliance with the provisions of this Ordinance.
12. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 139. Towing Services (11.06.000)**

Towing services shall be permitted in the EMU, BG, BI and M1 zones provided:

1. Any automobile and light truck storage is enclosed with a continuous fence or evergreen shrubbery so that storage is not visible from roads or adjoining properties.

2. The lot may not be used for the permanent storage of junked cars.

**Section 140. Travel Trailer (11.07.000)**

Travel trailers may be permitted as a temporary residence in the NAR, SAR, and MH zones provided that the travel trailers are located within a legally existing campground.

**Section 141. Storage Trailer Facility (11.09.000)**

Storage trailer facilities shall be permitted in the BG, BI and M2 zones provided the trailers are not located in the required bufferyards. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 142. Bus Storage (11.10.000)**

Bus storage may be permitted as a Special Exception in the NAR and SAR zones provided:

1. The lot that the storage is located on must be at least five (5) acres or larger.
2. Bufferyards meeting the C standard of Appendix B shall be provided at property boundaries.
3. No materials or vehicles shall be collected, accumulated, or stored within one hundred (100) feet of any front property line or within fifty (50) feet of any side or rear property line.
4. Any maintenance of these vehicles must be within the prescribed areas above, and should be done in a manner which does not create a nuisance to adjoining property owners.
5. Fuel storage of any kind shall be done in a manner which has been approved by all Federal, State, and Local Regulating authorities (i.e., EPA, Fire Marshal, Environmental Health, etc.).
6. Storage of unlicensed vehicles is prohibited.
7. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Part XII Industrial Uses**

**Section 143. Light Industrial Use (12.01.200)**

Light industrial uses may be permitted as a Special Exception in the NAR and SAR zones provided that:

1. There is no outdoor storage.

2. The minimum parcel size shall be ten (10) acres.
3. The minimum building setbacks for front, rear and sides shall be three hundred (300) feet. Side and rear setbacks may be reduced to fifty (50) feet when adjacent to a business or industrial zone. Front setbacks off of internal roads shall be 50 feet. Principal buildings shall be separated by at least one hundred (100) feet. Setbacks for parking areas shall be one hundred (100) feet from all residential zones and existing roadways.
4. The maximum building coverage of the entire site is twenty-five (25) percent.
5. The maximum height of the buildings shall be seventy-five (75) feet.
6. A minimum of thirty (30) percent of the development envelope shall be landscaped in accordance with Article X. The landscaping shall include screening to insure that loading and unloading activities are not visible from any public road or street.
7. All new distribution utility lines shall be underground except relocation of existing lines.
8. Bufferyards meeting the D standard of Appendix B shall be provided at property boundaries and street trees shall be provided in accordance with Article X.
9. The lot on which the facility is located and the principal entrance(s) for employees and for shipping and receiving are located along a controlled access or major arterial highway (i.e. U.S. 40, U.S. 301, MD 213, and MD 273) or on the following other major highways: MD 222, MD 272, MD 274, MD 275, MD 276, MD 279, and MD 316.
10. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 144. Sawmills (12.05.000)**

Sawmills may be permitted as a Special Exception in the NAR and SAR zones provided:

1. No saw or other machinery shall be less than 300 feet from any lot or street line.
2. All power saws and machinery shall be secured against tampering or locked when not in use.
3. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 145. Winery (12.06.000)**

Wineries shall be permitted in the NAR, SAR, RR, LDR, UR, VR, ST, MH, and RM zones provided:

1. The winery is accessory to a vineyard;
2. Access is not derived from an internal street of a subdivision;
3. Adequate off street parking is provided. Parking shall be adequately screened from adjacent properties;
4. The facility may provide food and beverages at events such as wine tastings, weddings, business meetings and conferences;
5. No type of advertising for the winery shall be carried out on the property except one (1) sign identifying the winery, limited to thirty two (32) square feet in size.

**Section 146. Concrete and Asphalt Plant (12.08.000)**

Concrete and asphalt batching plants shall be permitted in the M2 and MEA zone, provided:

1. Operation structures shall not be erected and storage of materials shall not take place within two hundred (200) feet of any property line or one hundred (100) feet of the right-of-way of any road.
2. The setback from property line shall not apply if the adjoining lot is being used for heavy industry or mineral extraction.
3. A bufferyard meeting the E standard in Appendix B shall be provided between the operation structures and any right-of-way of any road.
4. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 147. Mini-Storage (12.12.000)**

Mini-storage shall be permitted in the BG and BI zones provided:

1. No activities other than the dead storage or transfer of non-volatile goods or leasing of storage space are permitted.
2. A bufferyard meeting the D standard of Appendix B shall be provided at property boundaries when adjoining properties are used or zoned for residential purposes.
3. A bufferyard meeting the C standard of Appendix B shall be provided at property boundaries when adjoining properties are used or zoned for other than residential purposes.

**Section 148. Non-Automotive Fuel Sales or Storage (12.13.000)**

Non-automotive fuel sales shall be permitted in the BG, BI, M1 and M2 zones provided:

1. All storage tanks are setback 300 feet from all property lines.
2. The sale of kerosene or propane shall be permitted as an accessory use at motor vehicle filling stations and all pumps shall be setback according to the motor vehicle filling station requirements.
3. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 149. Research and Development Facilities (12.14.000)**

Research and development facilities and laboratories without processing of materials may be permitted as a Special Exception in the NAR, SAR, LDR, ST and UR zones provided:

1. The site area shall be ten (10) acres.
2. Structures erected or to be used shall not be less than 100 feet from any property line.
3. Such uses shall be confined to a structure(s).
4. Off-street parking shall not be less than 100 feet from any property line.
5. Goods or products are manufactured or processed only to the extent necessary for testing, evaluation, and test marketing to reach a commercialization decision and permit safe transfer to full manufacturing facilities.
6. A bufferyard meeting the C standard in Appendix B shall be required at property boundaries that adjoin a residential use and roadways.
7. If this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 150. Petroleum Products Recycling Facilities (12.15.200)**

Petroleum products recycling may be permitted as a Special Exception in the M2 zone provided that any recycling structures or tanks storing fuel are setback five hundred (500) feet from any residential or commercial property line or right-of-way line of any road. Further, if this use is to be located in the Resource Conservation Area (RCA) of the Cecil County Chesapeake Bay Critical Area the applicant must apply for, and receive, Growth Allocation as described in Article XI, Part I of this Ordinance prior to any approvals.

**Section 151. Hazardous Waste Recycling Facility (12.15.300)**

Hazardous waste recycling facility may be permitted as a Special Exception in the M2 zone provided that:

1. No part of the facility shall be permitted within 1,000 feet of any legally permitted residence or within 500 feet of an adjoining property line.
2. A 200 foot buffer is provided from the edge of any defined 100 year floodplain, perennial stream or non-tidal wetland. This buffer may be increased up to 300 feet to contain contiguous slopes over fifteen (15) percent or hydric soils.
3. A major site plan is approved in accordance with Section 291.
4. No hazardous waste is permanently stored in landfills under any circumstances.
5. Storage of hazardous waste must meet all State and Federal regulations.

**Section 152. Hazardous Waste Incineration Facility (12.15.400)**

Hazardous waste incineration facility may be permitted as a Special Exception in the M2 zone provided that:

1. No part of the incineration facility shall be within 1,000 feet of any legally permitted residence or within 500 feet of any property line.
2. A 200 foot buffer is provided from the edge of any defined 100 year floodplain, perennial stream or non-tidal wetland. This buffer may be increased up to 300 feet to contain contiguous slopes over fifteen (15) percent or hydric soils.
3. A major site plan is approved in accordance with Section 291.
4. No hazardous waste is permanently stored in landfills under any circumstances.
5. Storage of hazardous waste must meet all State and Federal regulations.

**Section 153. Rubble Landfill (12.15.500)**

Rubble landfills may be permitted as a Special Exception in the OS zone provided:

1. The rubble landfill is publicly owned.
2. Prior to review by the Planning Commission and the public hearing before the Board of Appeals, the applicant shall prepare and submit an assessment of the effects of the planned activities on the immediately surrounding environment, addressing all major environmental issues referenced in COMAR 26.04.07.06B. and any amendments thereto, and a generalized site plan of sufficient detail to show access, site activities and phasing of proposed activities.
3. A minimum of 100 acres shall be required for a rubble landfill site.
4. The rubble landfill shall not adversely impact a potable water supply.



5. All areas in which solid waste is deposited shall be at least 500 feet from the edge of any 100-year floodplain boundary line.
6. Rubble landfills shall be developed so that dumping areas shall not be nearer than one hundred (100) feet to any road right-of-way or property line and shall not be nearer than one thousand (1,000) feet from any lawfully permitted residential or institutional building.
7. The rubble landfill shall be contoured to substantially conform to the highest point of original grade of the site and in any case, the height of the landfill shall not exceed the height of the tallest structure or natural feature within 2,500 feet of the parcel in existence at the time of adoption of this Ordinance.
8. A bufferyard meeting the E standard in Appendix B shall be provided around the perimeter of the rubble landfill.
9. All approved rubble landfills shall have a one (1) foot thick clay bottom of  $1.0 \times 10^{-7}$  cm/sec. or less permeability and a minimum thirty (30) millimeter thickness synthetic liner of  $1.0 \times 10^{-10}$  cm/sec. permeability. Leachate collection and treatment shall be required. All side slopes shall not exceed 4 to 1.
10. The land area for the operation shall not be in the Critical Area.
11. Only the following materials may be disposed of in a rubble landfill:
  - a. Land clearing debris
    - (1) earthen material such as clay, sand, gravel and silt
    - (2) topsoil
    - (3) tree stumps
    - (4) root materials
    - (5) limbs - over 6" in diameter
    - (6) logs
    - (7) vegetation; and
    - (8) rock
  - b. Demolition Debris
    - (1) Acceptable demolition debris associated with the razing of buildings, roads, bridges, and other structures includes structural steel, concrete, brick (excluding refractory type), lumber, plaster and plasterboard, insulation

material, cement, shingles and roofing material, floor and wall tile, asphalt, pipes and wires, and other items physically attached to the structure.

- (2) Unacceptable demolition debris includes industrial waste or by-products including paper, cardboard, household appliances and white goods - any other material on the County recycle list including liquid waste, sludge, contaminated soils, paint, glaze and caulk containers - any waste materials, contained within structure or on the grounds of the structure being demolished that are not physically part of the structure, or which are comprised of or contain materials that pose an undue risk to public health or the environment.

**c. Construction Debris**

- (1) Acceptable construction debris is structural building materials including cement, concrete, bricks (excluding refractory type), lumber, plaster and plasterboard, insulation, shingles, floor, wall and ceiling tile, pipes, glass, wires, carpet, wallpaper, roofing, felt, or other structural fabrics.
- (2) Unacceptable construction debris includes commercial, domestic, or industrial wastes or by-products, paint, tar or tar containers, caulking compounds, glazing compounds, paint thinner or other solvents or their containers, creosote or other preservatives or their containers, tile, paneling, or carpet cement or other adhesives, and other solid waste which may contain an unacceptable waste or substance as may be determined by the Department of Public Works to be unacceptable.

**d. Asbestos Waste.** Asbestos waste is acceptable provided that the material that is received is packaged and labeled as specified in COMAR 16.11.15.04, and is managed in the following manner:

- (1) Prior notification to the landfill supervisor is required;
- (2) The waste asbestos is unloaded carefully to prevent emission of fibers in the air;
- (3) The areas used for burial of asbestos shall be restricted to the working face of the landfill, or a separate cell dedicated solely to asbestos disposal;
- (4) The waste shall be completely covered immediately with earth and may not be compacted or driven over until sufficient cover has been applied as specified by standards developed by the Department of Public Works to prevent the release of asbestos fibers to the atmosphere during compaction or application of other cover material; and

- (5) Operators of the landfill shall wear respiratory protection approved by the National Institute for Occupational Safety and Health for protection against asbestos fibers, and the protective clothing when considered necessary.
- e. Other Waste Materials. Waste materials not specifically listed in this section may not be disposed of in a rubble landfill before receiving written approval of the Department of Public Works.
- f. Disposal of tires shall not be permitted.

**12. General Provisions**

- a. Bonding. Bonding shall be required by Environment Article, § 9-211(c), Annotated Code of Maryland. Evidence of bonding shall be provided to the Director, Cecil County Department of Public Works.
- b. No dumping or construction may begin on a rubble landfill approved under special exception unless and until the Cecil County Solid Waste Management Plan has been amended to incorporate the proposed facility and a State permit has been obtained.
- c. Upon approval, the applicant shall be required to submit an annual report to the Cecil County Executive listing the following:
  - (1) The amount of capacity utilized to date;
  - (2) The remaining capacity of the landfill;
  - (3) The projected amount of time the landfill may remain open before reaching capacity; and
  - (4) any restrictions the operator intends to impose to prolong the landfill's life.
- d. Based upon information received with respect to all the above factors, the Board of Appeals may grant or deny the requested special exception or may, in the interests of the health, welfare and safety of the citizens of Cecil County, increase, decrease or otherwise alter the requested special exception or grant it upon special conditions, or in other ways alter the distance and other requirements as set forth in this section.
- e. The Board of Appeals shall condition any special exception for a rubble landfill upon consent by the applicant to inspection of the site, or any aspect of the operation of the facility, for compliance with the terms of the special exception, or any requirement of federal, state or local law, regulation, or permit applicable to the landfill, by appropriate county employees, at reasonable times, without any prior notice to the owners or operator of the landfill.

- f. The rubble landfill operator shall grant county inspectors and checkers access to any part of the site during operating hours to allow the inspectors and checkers to determine whether the landfill is being operated in accordance with all applicable laws, regulations, and permits.

**Section 154. Sanitary Landfill (12.15.600)**

1. Sanitary landfills may be permitted as Special Exceptions in the OS zone provided:
  - a. No dump shall be maintained, nor any trash, refuse, or junk discarded at any location other than a sanitary landfill operated for public use.
  - b. The sanitary landfill shall be developed so that dumping areas shall not be nearer than one hundred (100) feet to any road right-of-way or property line.
2. Prior to review by the Planning Commission and the public hearing before the Board of Zoning Appeals, the applicant shall prepare and submit an assessment of the effects of the planned activities on the immediately surrounding environment, addressing all major environmental issues referenced in COMAR 26.04.07.06B. and any amendments thereto, and a generalized site plan of sufficient detail to show access, site activities and phasing of proposed activities.
3. All areas in which solid waste is deposited shall be at least 500 feet from the edge of any 100-year floodplain boundary line.

**Section 155. Sludge Handling (12.15.700)**

Sludge handling may be permitted as a Special Exception in the NAR, SAR, OS and MEA zones provided that:

1. Prior to review by the Planning Commission and the public hearing before the Board of Appeals, the applicant shall prepare and submit an environmental impact statement. This report shall include, but is not limited to:
  - a. A site plan incorporating an approved conservation plan for sludge application, using the universal soil loss equation for the computation of soil loss; said site plan shall be kept on file in the Soil Conservation Office of Cecil County and implemented.
  - b. Description of the project, including application rates, soil conservation measures, sludge source, means of transportation to the site(s), biological and chemical composition of the sludge as determined by the State Department of Agriculture and/or the University of Maryland Department of Agronomy and a comparison to the existing maximum concentrations and limits of its contents according to the Maryland State Department of Environment permissible limits, application method, the name of the contractor who will apply the sludge, and a certificate of sludge origin.

- c. A three year plan for crop planting following sludge application.
  - d. An analysis of the project's positive and negative environmental impacts relating but not limited to ground water quality, surface water runoff, sediment transport, soil chemistry, heavy metals, pathogens, toxic organic, odor, and wildlife.
  - e. A description of potential impacts on other uses of the property and the uses of other properties in the vicinity.
  - f. A monitoring program to assure uniform methods of application and the nature of sludge material as approved by the Board of Appeals. The program must also provide data on ground water and surface water conditions using standard scientific methods.
  - g. A description of the relationship between the project and all County plans, policies and controls.
  - h. Description of all permits required by Federal, State, and local agencies and their status.
- 2.** Co-landfilling shall meet the following requirements:
- a. Co-landfilling shall not be permitted within 300 feet of a residence or within 100 feet of an adjoining property line.
  - b. A site plan indicating the proposed use of the site prior to initiation of the project shall be submitted for approval by the Department of Land Use and Development Services.
  - c. There shall be no co-landfilling within a minimum of 200 feet of any surface water including springs, seeps, or intermittent streams. Greater distances may be required based on factors that include but are not limited to: steepness of slopes, moisture saturation of the soil, and season of the year.
  - d. Access points and screening shall be provided at such locations and be of such types as may be required by the Department of Land Use and Development Services.
  - e. Co-landfilling rates, method of operation and maintenance shall be governed by regulations or recommendations of the State Department of Agriculture and/or the University of Maryland Department of Agronomy and shall be overseen by the University of Maryland Cooperative Extension Service for Cecil County.
- 3.** Composting shall meet the following requirements.
- a. No composting of material shall take place within 300 feet of a residence or within 100 feet of an adjoining property line.



- e. Access points and screening shall be provided at such locations and be of such types as may be required by the Department of Land Use and Development Services.
  - f. Application rates and methods of operation shall be governed by regulations or recommendations of the State Department of Agriculture and/or the University of Maryland Department of Agronomy and shall be overseen by the University of Maryland Cooperative Extension Service for Cecil County.
  - g. In addition to the principles of decision governing Special Exceptions under Article XVII, the Board of Appeals shall determine that:
    - (1) The application rates on designated agricultural land shall be consistent with the long-term productivity of the soil for food chain crops and the application shall be performed in a manner consistent with good agricultural practices. Application rates for nonagricultural land shall be consistent with the site plan approved by the Department of Land Use and Development Services.
    - (2) The Board of Appeals shall determine that application rates are consistent with good agricultural practices as determined by the University of Maryland Cooperative Extension Service, and that land application should be carried out using only those types of equipment which will result in a uniform application of the sludge. Any such equipment must have calibration capability.
    - (3) The Board of Appeals shall be assured of the best method of application, either injected or incorporated into the root zone or soil profile.
    - (4) Based upon information received with respect to all the above factors, the Board of Appeals may grant or deny the requested special exception or may, in the interests of the health, welfare and safety of the citizens of Cecil County increase, decrease or otherwise alter the requested special exception or grant it upon special conditions, or in other ways alter the distance and other requirements as set forth in this Ordinance.
6. Any sludge handling shall meet the following requirements.
- a. Any proposed use within this provision shall not take place within 300 feet of a residence or within 100 feet of an adjoining property line.
  - b. Any proposed use within this provision shall not be located on slopes greater than 15 percent.
  - c. No handling of sludge shall be permitted within a minimum of 200 feet of any surface water including springs, seeps, and intermittent streams. Greater distances

may be required based on factors that include but are not limited to: steepness of slopes, moisture saturation of the soil and season of the year.

- d. A site plan indicating the proposed use of the site prior to initiation of the project shall be submitted for approval to the Department of Land Use and Development Services.
- e. Access points and screening shall be provided at such locations and be of such types as may be required by the Department of Land Use and Development Services.
- f. Methods of operation and maintenance of facilities shall be governed by regulations or recommendations of the State Department of Agriculture and/or the University of Maryland Department of Agronomy and shall be overseen by the University of Maryland Cooperative Extension Service for Cecil County.
- g. Synthetic liners shall be required for storage pits and such liners shall be approved by the Maryland Department of the Environment and the Environmental Protection Agency for the proper control of leachate.

**Section 156. Power Generating Facilities (12.16.000)**

Power generating facilities may be permitted as a Special Exception in the NAR and SAR zones provided that the power is generated solely from solar, wind or water power sources. Solar power generating facilities may be permitted as a special exception in the BG zone provided the following conditions are met:

- 1. The minimum parcel size is fifty (50) acres.
- 2. The solar power generating facility is screened from adjoining residential zones.

**Section 157. Agricultural Product Sales (1.01.110)**

Agricultural product sales shall be permitted in the NAR and SAR zones provided:

- 1. The outside storage of agricultural products offered for sale shall be screened from adjacent properties by a bufferyard meeting the "A" standard of appendix B.
- 2. Outside storage areas of agricultural products offered for sale shall be setback 50 feet from all property lines.
- 3. Signs, product displays, parked vehicles and other obstructions that would adversely affect visibility at intersections or to driveways shall be prohibited.



4. Lighting shall be low level and arranged so as not to reflect or cause glare into any residential use or zone.
5. Signage shall be erected in accordance with the NAR and SAR standards of Article XIII.
6. Floor area for the sales of agricultural products shall be limited to 3,000 square feet.
7. The owner of the agricultural product sales establishment shall reside on the property upon which the establishment is operated.

**Section 158. Storage Trailer or Container (11.08.000)**

Storage trailers or containers shall be permitted in the NAR, SAR, RR, LDR, UR, VR, ST, RM, and MH zones provided the following conditions are met:

1. The storage trailer or container is placed on the property due to new construction, remodeling, or emergencies such as fire, flood, or other natural disasters;
2. Storage trailers or containers shall be permitted for an initial one year period, renewable for additional six month periods provided the construction or remodeling is continuing or the natural disaster repairs are still occurring;
3. The Department of Land Use and Development Services shall issue a certificate of zoning to an applicant prior to the placement of a storage trailer or container on their property;
4. Storage trailers or containers shall be in good repair and shall not be a hazard to the community;
5. The maximum number of storage trailers or containers on a property shall be the minimum necessary to accommodate the immediate need for temporary storage identified on the certificate of zoning;
6. Storage trailers or containers shall not be placed closer than ten (10) feet to a side or rear property line.

**Section 159. Neighborhood Essential Services**

Neighborhood essential services shall be permitted in all zones provided:

1. All water and sanitary sewer pump stations, shared water systems, sewage treatment facilities and/or wastewater treatment plants shall be placed in a soundproof building that utilizes the latest odor control techniques and shall be screened by a vegetative buffer meeting the Bufferyard E 1.0 standard of Appendix B. The noise emitted from the structure shall not exceed 65 dBA during the day and 55 dBA at night at the nearest property line. The Bufferyard E 1.0 standard may be modified by the Department of Land Use and Development Services to a 0.75 or 0.60 when it is demonstrated that the modification will not have an adverse effect on adjacent properties and that the modification will contribute to a better design. Water conveyance pipes and sewage collection pipes do not need to comply with this requirement;
2. All water and sanitary sewer pump stations, shared water systems, sewage treatment facilities and/or wastewater treatment plants established in existing communities shall be placed in a soundproof building and shall be screened by an evergreen vegetative buffer approved by the Department of Land Use and Development Services. Water conveyance pipes and sewage collection pipes do not need to comply with this requirement;
3. The soundproof buildings will have an exterior façade that is harmonious and consistent with the character of the surrounding neighborhood. A lighting plan must be approved by the Department of Land Use and Development Services. Exterior lighting shall be so shaded, shielded, or directed that the light intensity or brightness shall not adversely affect adjoining properties or shine into residential structures;

4. A landscape plan for the Bufferyard E or vegetative buffer, shall be approved by the Department of Land Use and Development Services. A landscape agreement must be executed for the Bufferyard E or vegetative buffer and be accompanied by a form of surety acceptable per Article X of this Ordinance. The minimum caliper of a canopy, understory or evergreen planting shall be 1".
5. The developer shall notify all property owners within a 500' radius of the proposed location of the treatment plant and/or pumping station of the impending location of the facility and shall provide proof of said notification to the County.
6. These regulations shall only apply to any water treatment plant, wastewater treatment plant, or pump station constructed after the adoption of these regulations. Existing plants and pump stations will not be required to retrofit to meet these standards. Water treatment plants, wastewater treatment plants, or pump stations that are part of a project receiving final approval prior to the adoption of these regulations are exempt from these standards.

**Section 160. Video Lottery Facility**

Video lottery facilities shall be permitted in the BG, BI, M1 and M2 zones provided:

1. The facility has access directly from a collector or arterial road and not a local road.
2. The use is located at least 200 feet from any residential zone and a bufferyard meeting the E 0.60 standard of Appendix B is provided between the facility and any residential zone. A fence at least 6' in height that occludes the view of the facility from residential properties shall be included with the berm.
3. Automobile parking spaces are located at least 200 feet from any adjacent residential zone.
4. Restaurants, hotels, entertainment venues and retail commercial may be established in connection with said use and must be included on a major site plan submitted to the Department of Land Use and Development Services.
5. All outdoor lighting shall be located, shielded, landscaped or otherwise buffered so that no direct light shall constitute a direct intrusion into a residential area.

**Section 161. Clinic (4.06.300)**

A clinic shall be permitted in the Business Local (BL), Business General (BG), Business Intensive (BI), Light Industrial (M1), and Heavy Industrial (M2) zones provided:

1. The clinic is located at least 200 feet from any residential zone.
2. The clinic is located 750 feet from any structure used as a house of worship, school, or daycare.

3. Access to the site must be from a collector or arterial road and not from a local road or street in a residential subdivision. Adequate off-street parking must be provided.
4. All state permits and licenses required to operate the clinic have been obtained prior to applying for the occupancy permit.
5. A description of the medical services proposed to be rendered by the clinic shall be provided with the application for any occupancy permit.

**Section 162. Reserved**

**Section 163. Reserved**

**Section 164. Reserved**

*(Amended 1/3/2012)*

**ARTICLE VI. SCHEDULE OF ZONE REGULATIONS**

## SCHEDULE OF ZONE REGULATIONS

DISTRICTS	AREAS NOT SERVED BY COMMUNITY FACILITIES					AREAS SERVED BY COMMUNITY FACILITIES					Maximum Height Feet	Minimum Road Frontage Feet
	Minimum Area & Dimension		Minimum Yard Requirements [1]			Minimum Area & Dimension		Minimum Yard Requirements [1]				
	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]		
<b>NAR</b>												
single-family residential low-density	20,000	80	40	10	40	12,000	65	30	10	30	35	100/25 [6]
<b>SAR</b>												
single-family residential low-density	20,000	80	40	10	40	12,000	65	30	10	30	35	100/25 [6]
<b>RR</b>												
single-family residential low-density	20,000	80	40	10	40	12,000	65	30	10	30	35	100/25 [6]
<b>LDR</b>												
Detached, Single Family	20,000	80	30	10	40	12,000	65	30	10	40	35	100/25 [6]
Semi-Detached [14]	na	na	na	na	na	6,500 [4]	65	30	15	40	35	100/25 [6]
Duplex [14]	na	na	na	na	na	13,000 [5]	80	30	15	40	35	100/50 [6]
<b>UR</b>												
Detached, Single Fam [15]	20,000	80	20	10	20	6,500	65	20	10	20	35	100/25 [6]
Semi-Detached [7], [15]	na	na	na	na	na	6,500 [4]	65	15	10	20	35	100/25 [6]
Duplex [7]	na	na	na	na	na	12,000 [5]	80	15	10	20	35	100/50 [6]
Townhouse [3]	na	na	na	na	na	1,800	18	20	15 [8]	20	35	Na
Apartments [3]						Refer to Article XII						

## SCHEDULE OF ZONE REGULATIONS

DISTRICTS	AREAS NOT SERVED BY COMMUNITY FACILITIES					AREAS SERVED BY COMMUNITY FACILITIES					Maximum Height Feet	Minimum Road Frontage Feet
	Minimum Area & Dimension		Minimum Yard Requirements [1]			Minimum Area & Dimension		Minimum Yard Requirements [1]				
	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]		
<b>ST</b>												
Detached, Single Family	20,000	80	20	10	20	6,500	65	20	10	20	35	100/25 [6]
Semi-Detached [3]	na	na	na	na	Na	6,500 [4]	65	15	10	20	35	100/25 [6]
Duplex [3]	na	na	na	na	Na	13,000 [5]	80	15	10	20	35	100/50 [6]
Townhouse [3]	na	na	na	na	Na	1,800	18	20	15 [8]	20	35	na
Apartments [3]						Refer to Article XII						
<b>VR</b>												
Detached, Single Family	20,000	80	30	10	40	6,000	55	15	5	40	35	100/25 [6]
Semi-Detached	na	na	na	na	Na	6,000	55	15	5	40	35	100/25 [6]
Duplex	na	na	na	na	Na	10,000	55	15	5	40	35	100/25 [6]
<b>RM</b>												
Detached, Single Family [15]	20,000	80	20	10	20	6,000	65	20	10	20	35	100/25 [6]
Semi-Detached [15]	na	na	na	na	Na	6,000 [4]	65	15	10	20	35	100/25 [6]
Duplex	na	na	na	na	Na	12,000 [5]	80	15	10	20	35	100/50 [6]
Townhouse	na	na	na	na	Na	1,800	18	20	15 [8]	20	45	18
Apartments						Refer to Section 28						

## SCHEDULE OF ZONE REGULATIONS

DISTRICTS	AREAS NOT SERVED BY COMMUNITY FACILITIES					AREAS SERVED BY COMMUNITY FACILITIES					Maximum Height	Minimum Road Frontage
	Minimum Area & Dimension		Minimum Yard Requirements [1]			Minimum Area & Dimension		Minimum Yard Requirements [1]				
	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]		
<b>MH</b>												
Detached, Single Family	20,000	80	30	10	40	6,500	65	30	10	40	35	100/25 [6]
Mobile Home Subdivision	20,000	80	30	10	40	6,500	65	30	10	40	35	100/25 [6]
<b>BL</b>												
Commercial/Business	15,000	65	25	20 [10]	60 [11]	15,000	65	25	20 [10]	60 [11]	35	50
Residential	20,000	80	30	10	60	6,500	65	30	10	40	35	100/25 [6]
<b>BG</b>												
Commercial/Business	20,000	65	50	20 [10]	60 [11]	As required	65	50	20 [10]	60 [11]	65	50
Residential	20,000	80	30	10	60	6,500	65	30	10	40	35	100/25 [6]
<b>BI</b>												
Commercial/Business	As required	65	75/30 [12]	50 [10]	60 [11]	As required	65	75/30 [12]	50 [10]	60 [11]	75	50
Residential	20,000	80	30	10	60	6,500	65	30	10	40	35	100/25 [6]
<b>MB</b>												
Business	20,000	65	110 [13]	20 [10]	60 [11]	As required	65	110 [13]	20 [10]	60 [11]	35	50
Residential	20,000	80	110 [13]	10	60	6,500	65	110 [13]	10	40	35	100/25 [6]
<b>M1</b>												
Industrial	As required	As required	75/30 [12]	50 [10]	60 [11]	As required	As required	75/30 [12]	50 [10]	60 [11]	75	50



## SCHEDULE OF ZONE REGULATIONS

DISTRICTS	AREAS NOT SERVED BY COMMUNITY FACILITIES					AREAS SERVED BY COMMUNITY FACILITIES					Maximum Height	Minimum Road Frontage
	Minimum Area & Dimension		Minimum Yard Requirements [1]			Minimum Area & Dimension		Minimum Yard Requirements [1]				
	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]		
<b>M2</b>												
Industrial	As required	As required	75/30 [12]	50 [10]	60 [11]	As required	As required	75/30 [12]	50 [10]	60 [11]	75	50
<b>MEA</b>												
Industrial	See Sections 67 and 68 for setback and other requirements					See Sections 67 and 68 for setback and other requirements						
Residential	20,000	80	40	10	40	12,000	65	30	10	30	35	100/25 [6]

## SCHEDULE OF ZONE REGULATIONS

DISTRICTS	AREAS NOT SERVED BY COMMUNITY FACILITIES					AREAS SERVED BY COMMUNITY FACILITIES					Maximum Height Feet	Minimum Road Frontage Feet
	Minimum Area & Dimension		Minimum Yard Requirements [1]			Minimum Area & Dimension		Minimum Yard Requirements [1]				
	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]	(Sq.Ft.)	Width (ft.)	Front	Side [2]	Rear [2]		
<b>RMU</b>												
Detached, Single Family	20,000	80	30	10	30	5,500	55	15	5	30	35	100/25 [6]
Semi-Detached	na	na	na	na	na	5,500 [4]	55	15	5	30	35	100/25 [6]
Duplex	na	na	na	na	na	12,000 [5]	55	15	5	30	35	100/25 [6]
Townhouse	na	na	na	na	na	1,800	18	20	15 [8]	40	45	18
Apartments	na	na	na	na	na	Refer to Sections 28 & 30						
Industrial/Commercial	As required	As required	30	10	30	As required	As required	30	10	30	75	50
<b>EMU</b>												
Detached, Single Family	20,000	80	30	10	30	5,500	55	15	5	30	35	100/25 [6]
Semi-Detached	na	na	na	na	na	5,500 [4]	55	15	5	30	35	100/25 [6]
Duplex	na	na	na	na	na	12,000 [5]	55	15	5	30	35	100/25 [6]
Townhouse	na	na	na	na	na	1,800	18	20	15 [8]	40	45	18
Apartments						Refer to Sections 28 & 31						
Industrial/Commercial	As required	As required	30	10	30	As required	As required	30	10	30	75	50

**See Notes on following page.**

## SCHEDULE OF ZONE REGULATIONS

### Notes:

- [1] Principal structures on lots created after the adoption of this Ordinance shall be setback from any right-of-way or road widening easement of collector or arterial roadways as defined on the Official Cecil County Roadway Classification Map as follows:

#### ZONING DISTRICT MINIMUM SETBACK

NAR, SAR, RR	100 Feet
LDR, UR, ST	50 Feet

- [2] When required, side and rear yards are each increased by at least one foot for each additional foot of building above 35 feet.
- [3] Permitted in PUDs only
- [4] Per unit
- [5] Per building
- [6] Road frontage requirements may be reduced to the lower figure for lots on a local roadway as defined on the Official Cecil County Roadway Classification Map.
- [7] Permitted only when served by public sewer or when within a PUD.
- [8] A 15 foot side yard is required for end units.
- [9] Reserved
- [10] Where the proposed use abuts land zoned "business" or "industrial" the minimum side yard shall be 10 feet.
- [11] Where the proposed use abuts land zoned "business" or "industrial" the minimum rear yard shall be 30 feet.
- [12] Setback may be reduced to lower figure when access is from an internal street serving an industrial or business park.
- [13] Measured from mean high tide or the landward extent of tidal wetlands whichever is greater. For Modified Buffer Areas see Section 195.
- [14] Permitted with TDRs only
- [15] Minimum lot size in PUD and TDR developments shall be 5,400 square feet.

**ARTICLE VII DENSITY AND DIMENSIONAL REGULATIONS**

**Section 165. Minimum Lot Size, Density and Yard Requirements**

After the effective date of this Ordinance, any lot created shall meet the lot size, density and other minimum requirements as specified in the Articles VI and VIII in the regulations for each zone, except as may be provided in Article XI, Part I, Section 193 through 197.

**Section 166. Maintenance of Required Minimum Yards, Open Space and Lot Area**

The maintenance of minimum yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of the property on which it is located. Furthermore, no legally required yards, other open space, or minimum lot area allocated to a building shall by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

**Section 167. Building Yard/Area Requirements**

1. Yard requirements are set forth for each zone in Article VI. In the case of corner lots, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of equal depth shall be provided on the other frontage. In the case of corner lots with more than two frontages, the Zoning Administrator shall determine the requirements for each.
2. Where an official boundary line has been established by deed description or easement for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line.
3. For the purpose of the side yard regulation, a group of business or industrial buildings separated by common or party walls shall be considered as one (1) building occupying one (1) lot.
4. Where a lot is to be occupied for a permitted use without buildings, the yards required for such lot shall be provided unless otherwise stipulated in the Ordinance, except that yards shall not be required on lots used for garden purposes nor on lots used for public recreation areas. The use of vacant land for a permitted use, other than agriculture, shall require a Zoning Certificate.
5. Condominiums shall meet the required setbacks for the zoning district in which they are located.

**Section 168. Building Height Limitations**

1. Except as hereinafter provided, no building or structure, or part thereof, shall hereafter be erected or altered to a height greater than the maximum specified for the respective zone.
2. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in Article VI, Schedule of Zone Regulations.
3. Except in the Critical Area District or within an area defined as Airport Approach Zone by the Federal Aviation Administration or other government agency, the height limitations specified in Article VI shall not apply to:

Agricultural or Agribusiness structures

Belfries

Chimneys

Church Spires

Communication Towers

Conveyors

Cooling Towers

Elevator Bulkheads

Fire Towers

Flagpoles

Public Monuments

Ornamental Towers and Spires

Smoke Stacks or Scrubbing towers

Storage Tanks

Stage Towers

Water Towers and standpipes

4. Except for water towers and standpipes, the height of any structure listed in 3 above which is constructed after the date of adoption of this Ordinance shall not exceed the distance between such structure and any lot line.
5. When permitted in a zone, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the zone for which the building is located.

**Section 169. Structure Limits Over Water**

No structure connected to the shoreline, such as a dock, pier, boathouse, etc., shall extend outward from the Mean High Water Line from where the structure is connected to the shoreline, more than twenty-five (25) percent of the distance to the upland on the opposite shore, or more than three hundred (300) feet, whichever is the lesser distance. Notwithstanding this provision, no dock or pier shall extend to within the boundaries of any defined navigation channel established by a state or federal agency.

**Section 170. Setback Modification**

The front, rear and side setbacks, and lot width requirements may be modified by the Cecil County Planning Commission in the case of major subdivisions and by the Department of Land Use and Development Services in the case of minor subdivisions or site plans where it is determined that such modifications will contribute to better subdivision or site plan design and will not have an adverse effect on adjacent properties.

**Section 171. Road Frontage Waivers**

The minimum road frontage requirements as stated Article VI - Schedule of Zone Regulations shall not be required:

1. For lots created under the intra-family transfer provisions (i.e. perpetual road maintenance agreements) of the Cecil County Road Code.
2. For subdivisions proposed under a previously approved Road Code Waiver.
3. In business or industrial parks where the roads are built to County Road Code standards but which are privately maintained.
4. For newly created business or industrial lots where said lots share ingress and egress with other business or industrial uses at approved access points onto County and State maintained roads. Said access points shall serve a maximum of three (3) lots. Appropriate legal instruments shall be recorded that provide for the shared ingress and egress.
5. For lots being created around legally existing dwellings provided that legal instruments are recorded providing perpetual access onto a County or State maintained road to the newly created lot.

**Section 172. Drafting Tanks and Dry Hydrants**

All developments of ten (10) building lots or more that receive final approval after the adoption of this Ordinance that are not served by a community water supply which is capable of supplying fire fighting operations with 400 gallons per minute for a time period of 30 minutes shall provide a water source within 2,000 feet of the development that consists of:

1. A pond or stream that meets the above criteria;
2. A cistern;
3. An underground fiberglass tank; or
4. A dry standpipe served by a water source meeting the above criteria;

The homeowners association shall be responsible for the repair and replacement of the tank as well as filling the tank.

**Section 173. Reserved**

**ARTICLE VIII SCHEDULE OF DENSITY AND OPEN SPACE REQUIREMENTS**



**SCHEDULE OF DENSITY AND OPEN SPACE REQUIREMENTS**

<b>DISTRICT</b>	<b>Minor Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>
	<b>Maximum Dwelling Units Per Acre (DU's per Acre)</b>	<b>Density w/out Com. Facilities Dwelling Units Per Acre</b>	<b>Density with Com. Facilities Dwelling Units Per Acre</b>	<b>PUD Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Minimum Open Space Requirement</b>	<b>Minimum Open Space Requirement [1]</b>	<b>PUD Minimum Open Space Requirement</b>
<b>NAR</b>	1	1 unit per 10 ac	1 unit per 10 ac	na	na	na	na	na
<b>SAR</b>	1	1 unit per 20 ac	1 unit per 20 ac	na	na	na	na	na
<b>RR</b>	1	1 unit per 3 ac	1 unit per 3 ac	na	na	na	na	na
<b>LDR</b>								
- Detached	na [5]	1	2	na	na	15%	15%	na
- Semi Detached	na	na	na	na	na	15%	na	na
- Duplexes	na	na	na	na	na	15%	na	na
- Townhouse	na	na	na	na	na	15%	na	na
<b>UR</b>								
- Detached	na [5]	1	4	8	8	15%	15%	20%
- Semi Det & Duplex	na	na	6	8	8	15%	15%	20%
- Townhouse	na	na	8	12	14	15%	15%	20%
- Apartment	na	na	10	10	12	15%	15%	20%
<b>ST</b>								
- Detached	na [5]	1	4	6	6	15%	15%	20%
- Semi Detached	na	na	na	6	6	15%	15%	20%
- Duplexes	na	na	na	6	6	15%	15%	20%
- Townhouse	na	na	na	6	6	15%	15%	20%
- Apartment	na	na	na	6	6	15%	15%	20%

**SCHEDULE OF DENSITY AND OPEN SPACE REQUIREMENTS**

<b>DISTRICT</b>	<b>Minor Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>
	<b>Maximum Dwelling Units Per Acre (DU's per Acre)</b>	<b>Density w/out Com. Facilities Dwelling Units Per Acre</b>	<b>Density with Com. Facilities Dwelling Units Per Acre</b>	<b>PUD Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Minimum Open Space Requirement</b>	<b>Minimum Open Space Requirement [1]</b>	<b>PUD Minimum Open Space Requirement</b>
<b>VR [4]</b>								
- Detached	na [5]	1	4	na	na	na	15%	na
- Semi Detached	na [5]	na	4	na	na	na	20%	na
- Duplexes	na [5]	na	4	na	na	na	20%	na
<b>RM</b>								
- Detached	na [5]	2	6	na	na	na	10%	na
- Semi Detached	na [5]	2	10	na	na	na	15%	na
- Duplexes	na [5]	2	10	na	na	na	15%	na
- Townhouse	na	2	12	na	na	na	15%	na
- Apartment	na	2	14	na	na	na	15%	na
<b>MH</b>								
- Detached	na [5]	2	4	na	na	na	15%	na
- Mobile Homes	na [5]	2	4	na	na	na	15%	na
- Mobile Home Park	na	na	6	na	na	na	15%	na
<b>MEA</b>								
- Detached	1 unit per 50 ac	1 unit per 50 ac	1 unit per 50 ac	na	na	na	20%	na

**SCHEDULE OF DENSITY AND OPEN SPACE REQUIREMENTS**

<b>DISTRICT</b>	<b>Minor Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>	<b>Major Subdivision</b>
	<b>Maximum Dwelling Units Per Acre (DU's per Acre)</b>	<b>Density w/out Com. Facilities Dwelling Units Per Acre</b>	<b>Density with Com. Facilities Dwelling Units Per Acre</b>	<b>PUD Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Maximum Dwelling Units Per Acre [6]</b>	<b>TDR Minimum Open Space Requirement</b>	<b>Minimum Open Space Requirement [1]</b>	<b>PUD Minimum Open Space Requirement</b>
<b>RMU</b>								
- Detached	1	1	4	8	8	10%	10%	20%
- Semi Detached	na	na	4	8	8	10%	15%	20%
- Duplexes	na	na	4	8	8	10%	15%	20%
- Townhouse	na	na	4	10	12	10%	15%	20%
- Apartment	na	na	8	10	12	10%	15%	20%
<b>EMU</b>								
- Detached	1	1	4	8	8	10%	10%	20%
- Semi Detached	na	na	4	8	8	10%	10%	20%
- Duplexes	na	na	4	8	8	10%	10%	20%
- Townhouse	na	na	4	10	12	10%	10%	20%
- Apartment	na	na	8	10	12	10%	10%	20%

See Notes on following page.

## **SCHEDULE OF DENSITY AND OPEN SPACE REQUIREMENTS**

### **Notes:**

- [1] This open space requirement applies to all major development involving ten (10) units/lots or more.
- [2] See Sections 22, 23 or 24 for detailed requirements.
- [3] Reserved
- [4] See Section 28.
- [5] For purposes of Article VIII, minor subdivision density shall be the same as major subdivision, with or without community facilities.
- [6] Must be served by community facilities

**ARTICLE IX ENVIRONMENTAL STANDARDS AND OPEN SPACE**

**Section 174. Environmental Standards for all Subdivisions and Development Requiring Site Plan Approval**

**1. Perennial Stream no-disturbance buffer**

- a.** A one-hundred ten (110) foot natural buffer from all perennial streams, as described on the most recent U.S.G.S. 7.5 Minute Quadrangle maps shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this buffer.
- b.** If the property is located outside of the Cecil County Critical Area District this buffer requirement may be waived by the Cecil County Planning Commission and/or the Department of Land Use and Development Services for the following:
  - (1)** If the development occurs within the "Growth Corridor" described within the Comprehensive Plan provided:
    - (a)** If evidence is provided that the design, construction and use of the site will provide the same or better protection of water quality as the 110' buffer, and;
    - (b)** If evidence is provided that said development will meet all other applicable requirements, as required.
  - (2)** Road crossings, if disturbance is minimized.
  - (3)** Other public or community facilities provided disturbance is minimized in so far as possible.
- c.** This buffer shall be transferred to the Cecil County Government if designated on the Cecil County Greenways Plan.

**2. Non-Perennial stream no-disturbance buffer**

- a.** A twenty-five (25) foot buffer from all non-perennial streams shall be required for all development. Permanent or temporary stormwater management and sediment control devices shall not be permitted in this buffer.
- b.** If the property is located outside of the Cecil County Critical Area District this buffer requirement may be waived by the Cecil County Planning Commission and/or the Department of Land Use and Development Services for the following:
  - (1)** Road crossings, if disturbance is minimized.
  - (2)** Other public or community facilities provided disturbance is minimized in so far as possible.

3. Sensitive Soil no-disturbance buffer. The one-hundred ten (110) foot perennial stream buffer shall be expanded to include contiguous hydric soils, partially hydric soils, highly erodible soils and soils on slopes greater than fifteen percent (15%) to a maximum distance of one-hundred sixty (160) feet.
4. Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.
5. Steep Slopes.
  - a. No structure or impervious surface shall occur on any slope with a grade of twenty-five (25) percent or more covering a contiguous area of 10,000 square feet or more.
  - b. On slopes between fifteen (15) and twenty-five (25) percent, good engineering practices shall be used to ensure sediment and erosion control and slope stabilization before, during, and after disturbance activities and to minimize cut and fill.
6. Habitats of Rare, Threatened and Endangered Species. Development shall avoid these areas as described by the Maryland DNR, Natural Heritage Program.
7. Forest Conservation. All regulated activities defined by the Cecil County Forest Conservation Regulations shall meet all requirements as prescribed herein.

#### **Section 175. Community Sewerage System**

1. Definitions
  - a. The following terms have the meanings indicated.
  - b. Terms Defined
    - (1) Approving Authority – the local health department.
    - (2) Controlling Authority – a governmental body or private utility empowered by the County for management, operation, and continuous preventative and corrective maintenance of a shared facility.
    - (3) Shared Facility – a water or sewerage system which serves a minimum of fifteen (15) lots with water or sewer systems located on parcels owned in common by the users or the controlling authority.
    - (4) Users – a single family residence, multi-unit, commercial unit, or equivalent of them, which is served by the shared facility.

- (5) Lot – a parcel of land recorded in the Office of the Clerk of the Court, or a parcel described by metes and bounds, the description of which has been so recorded.

**2. Applicability**

- a. A controlling authority shall conform to all State & County laws, ordinances, and regulations.
- b. A controlling authority may purchase, hold, lease, build, construct, own, operate, repair, maintain, and improve a shared facility in the County and enter into contractual agreements with the federal government, the State, or with a municipality, person or individual providing services for a shared facility.
- c. The controlling authority cannot be the approving authority.
- d. The controlling authority may establish, operate, or manage a shared facility if this action does not violate any federal, State, or local law or regulations, and is in compliance with the County water and sewer plan, and would be in the interest of the public health, safety and comfort.
- e. In all cases, the controlling authority and its designee shall be approved by the approving authority, the Maryland Department of the Environment and be designated by the Cecil County Executive. This approval shall be conditional upon the financial and ownership requirements as are found necessary to insure continued efficiency and effective operation of the system.
- f. The controlling authority shall make such provisions as are necessary to insure that all sanitary facilities under its control cannot be dissolved or otherwise made legally or functionally inoperative unless the sanitary facilities are replaced by facilities which provide equal or better protection to the public health and that of the users, except when the users no longer require sanitary facilities.
- g. Any person may apply in writing to a controlling authority requesting the controlling authority to establish and operate a shared facility. It is the intent of this section that all shared facilities approved, established, and constructed hereunder, shall remain in private ownership of the development being serviced by the shared facility unless it is owned and operated by the County.
- h. The approving authority or the County Executive may order the controlling authority to perform repairs or corrections in order to insure proper operation of the shared facility.
- i. The controlling authority and/or its designee is approved by the approving authority and the Maryland Department of the Environment and shall be appointed by the County Executive to operate the shared facility.

- j. Developments using shared facilities shall not exceed the maximum allowable density of the underlying zoning district(s).
- k. Developments using shared facilities in the NAR and SAR zone shall not encumber more than 40 percent of the gross acreage of the parcel with lots, except for one large lot and any available minor subdivision lots.
- l. If the controlling authority is not the water and wastewater division of the Department of Public Works, a public works agreement shall be executed prior to recordation for potential upgrades and maintenance to the shared facility. The controlling authority shall maintain and provide to the County upon request detailed inspection logs and maintenance logs.

3. Design

- a. All shared facilities shall be constructed and operated in accordance with applicable State and local laws and regulations.
- b. The design of all sewerage treatment and disposal systems operated as a shared facility shall be reviewed and approved by the Maryland Department of the Environment, the approving authority, and the Cecil County Department of Public Works.
- c. Subsurface Disposal
  - 1. There shall be an area or areas of land suitable for the subsurface disposal set aside for each dwelling unit or equivalent which is equal to 10,000 square feet for sewage purposes.
  - 2. The land set aside may not have any structures erected upon it.
  - 3. The land must not be disturbed by earth moving or grading after its approval for use by the approving authority without prior authorization by the approving authority.
  - 4. A covering or topping such as gravel, asphalt, or concrete, which impedes the growth of vegetation, may not be placed on the land set aside for subsurface disposal.
  - 5. The suitability of land for wastewater disposal shall be determined in accordance with COMAR 26.04.02 and 26.04.03.
  - 6. The wastewater flow, by which the sizing of the disposal fields is determined, shall be calculated by adding the flows per individual unit as determined in COMAR 26.04.02.
  - 7. The land set aside for sewage disposal shall have enough area for the initial disposal field and two replacement fields.



8. The land set aside shall not be located within a forest retention, reforestation, or afforestation area, as defined by the Cecil County Forest Conservation Regulations.
- d. Collection Lines. The collection lines of any shared facility shall be guided by the design guidelines for sewerage facilities which are contained in "Design Guidelines for Sewerage Facilities" 1978 Edition (Technical Bulletin M-DHMH-EHA-S001) which is incorporated by reference and be constructed to meet the requirements of the Cecil County Standard Specifications and Details for Water Mains and Sewer Mains. The following shall also apply:
1. All piping, pumps, septic tanks (made of Type II cement) and control equipment shall be capable of withstanding the corrosive effects of anaerobic sewage.
  2. Duplex pumping facilities may not be required for individual home pumping units.
  3. Sewer lines collecting from the entire development should be conventional gravity lines to the extent possible.
  4. The controlling authority's maintenance responsibility shall end at the sanitary cleanout approximately at the right of way/property line. Homeowners shall be solely responsible for all maintenance of the sanitary house connection, including internal piping or pumping equipment.
- e. Septic Tanks
1. A minimum of two (2) baffled septic tanks shall be provided in the common treatment area, each sized in accordance with COMAR 26.04.02 or 1,250 gallons effective volume) per equivalent living unit, whichever is greater.
  2. Septic tanks shall have two (2) access ports at ground level per tank, which are at least twenty-four (24) inches in minimum dimension, to enable the tank to be inspected and cleaned.
  3. All tanks shall be located so as to be inspected and cleaned.
  4. Septic tanks shall gravity drain, one into the other, and then into the disposal laterals.
- f. The approving authority, with the concurrence of the Maryland Department of the Environment, may grant exceptions to subsections d and e of the section when, in the opinion of the approving authority, the exceptions will result in improved or equivalent operation, maintenance, or benefits to the public health, and when improved technology determined by the approving authority to be equivalent or an improvement to that specified in subsections d and e is to be employed.

g. Water Standards

1. The design of the water treatment and distribution system shall be reviewed by the Maryland Department of the Environment and the approving authority. The design shall meet the requirements of COMAR 26.03.02.03.
2. To the extent practicable, location of a part or all or all of the new facility shall be avoided at a site which is subject to earthquakes, floods, fires, or manmade disasters which could cause a breakdown of the public water system or a part of it or if it is within the 100 year floodplain.
3. A supplier of water using any device employed in the treatment of drinking water shall have the approval of the approving authority before installation of the treatment device.
4. All shared water systems shall be designed and constructed in accordance with the Department of Public Works' Water and Sewer Standards, including but not limited to curb stops and water meters at the property line.
5. Design of the shared facility must bear the signature and seal of a professional engineer licensed in the State of Maryland.

**Section 176. Provision of Common Open Space**

1. Common open space shall be an integral part of all major subdivisions of ten (10) units or more and all Planned Unit Developments. It may be used to:
  - a. Unify the entire project.
  - b. Reduce conflicts between incompatible activities and uses.
  - c. Provide active recreation areas.
  - d. Provide passive recreation opportunities.
  - e. Provide for the protection of sensitive natural and/or cultural resources.
  - f. Provide for the protection of historically significant resources.
  - g. Provide for public utilities or shared facilities, including, but not limited to electric and gas distribution infrastructure, fire suppression drafting tanks, and shared water or sewerage facilities.
  - h. Avoid fragmentation of large areas of contiguous habitat.
2. Common open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complimentary structures, improvements as

are necessary and appropriate for the use, benefit and enjoyment of residents of the development. Common open space areas shall meet the following requirements:

- a. Be exclusive of road rights-of-way and parking areas.
  - b. Equal or exceed the percentages of the gross site area required in Article VIII Schedule of Density and Open Space Requirements.
  - c. No more than forty (40) percent of the common open space required shall consist of those areas designated as nontidal or tidal wetlands except in the NAR and SAR zones.
  - d. Except in the NAR and SAR zones, at a minimum, fifteen (15) percent of the required open space shall not consist of perennial or intermittent stream buffers, nontidal wetlands or buffers, steep slopes, or habitats of rare, threatened and endangered species.
3. Common open space design shall consider all existing natural and culturally/historically significant man-made features and plan for their protection and enhancement. These include, but are not limited to:
- a. Water courses or bodies and associated floodplain or floodway.
  - b. Rare, threatened or endangered species and associated habitat protection areas needed to ensure species survival.
  - c. Culturally and historically significant sites and/or structures as determined by guidelines established by the Cecil County Planning Commission, Department of Land Use and Development Services, and the Maryland Historical Trust.
  - d. Applicants for any new development shall make every possible attempt to locate required open space next to any significant and permanent open space areas on-site or on adjacent or abutting sites.
4. Common open space may serve recreational purposes, preserve significant site features, and preserve open space. The uses authorized shall be appropriate to the purposes intended to be served. Open space designed to serve recreational purposes shall be appropriate to the scale and character of the development, considering its size, density, expected population, and the number and type of dwelling units proposed.
5. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of protection may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space must be appropriate to the uses which are authorized for the common space.

### **Section 177. Open Space Requirement**

1. Common open space shall be provided in subdivisions in accordance with Article III and Article VIII.
2. Open space shall be provided in condominium projects in accordance with Article III and Article VIII.
3. Open space shall be provided in apartment projects in accordance with Article III and Article VIII.

#### **Section 178. Common Open Space – Ownership**

1. Private Ownership. If common open space or open space areas or facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission. Nothing in this Ordinance shall be construed so as to prohibit a homeowner's association from leasing common open space for agricultural purposes and restricting access to common open space to promote agricultural operation.
2. It is the intent of this Ordinance that common open space in subdivisions be privately owned by those subdivisions' Homeowners' Associations, consistent with Maryland corporate law and in conformity with the requirements of the Corporate Charter Division of the Maryland Department of Assessment and Taxation.
3. It is the intent of this Ordinance that open space in condominium developments be privately owned by those developments' Condominium Associations, consistent with Maryland condominium law and in conformity with the requirements of the Corporate Charter Division of the Maryland Department of Assessment and Taxation.
4. It is the intent of this Ordinance that open space in apartment developments be privately owned by those developments' owners, consistent with Maryland corporate law.
5. Public Ownership of Open Space Dedication. Unless the Planning Commission finds that the size, location, type of development, or cost of development or maintenance of such open space or the availability of public open space would make public use desirable and necessary, open space shall not be made available for the use of all residents of the County.

#### **Section 179. Management of Common Open Space Property**

1. The developer shall insure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance and preservation of open space which shall conform to the following standards and procedures:
  - a. The organization shall be established by the developer before sale or rental of

lots or dwelling units in the development.

- b. The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to insure the successful fulfillment of the maintenance, preservation and improvement responsibilities of the organization.
- c. All property owners within the development shall be required to participate in such organization and shall be responsible for maintenance, preservation, and improvement of common open space lands.
- d. Areas set aside to meet the open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenants shall be provided to insure the purpose for which the open space is provided will be achieved. Said instruments shall be approved by the Planning Commission counsel prior to recordation among the Land Records of Cecil County.

#### **Section 180. Bond for Open Space Improvements**

Prior to the recordation of a final plat, there shall be delivered by the owner or developer some form of surety acceptable to the County in an amount as specified by the County, or the execution and recordation of a subdivision agreement, which shall be submitted with the final subdivision plat, as described in the Cecil County Subdivision Regulations, which subdivision agreement or surety shall secure an agreement to construct such required physical improvements as identified in any proposed plan of development.

#### **Section 181. Flexibility in Administration Authorized**

- 1. The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities in connection with residential developments are established by the County as standards that presumptively will result in the provision of that amount of recreational facilities that is consistent with officially adopted County plans. The County recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing body is authorized to permit minor deviations from these standards. Nothing in this section shall be construed so as to allow a lesser open space percentage than that required in Article III.
- 2. Whenever the permit-issuing board authorizes some deviation from the standards set forth in this article pursuant to Subsection 1, the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

#### **Section 182. Open Space - Payment in Lieu**

The common open space requirement of any proposed subdivision required to provide open space per Article III of these regulations may be waived by the Planning Commission if a payment in lieu of open space is made to the County's Purchase of Development Rights program. Said payment shall

be in an amount established by the Department of Land Use and Development Services and shall be made prior to final plat approval by the Director of Land Use and Development Services..

**Section 183. Greenways**

Any minor subdivision, major subdivision, or site plan proposing development on parcels subject to the alignments shown on any greenways and/or bikeways map that may be adopted as part of the Comprehensive Plan, may grant public access easements to the Cecil County Government across the minimum land necessary to accommodate the alignment of the proposed greenway and/or bikeway.

## **ARTICLE X      LANDSCAPE REQUIREMENTS**

### **Section 184. Landscape Standards**

For all Major Subdivisions, Planned Unit Developments (PUD), and commercial and industrial development required to file a "Major Site Plan" as prescribed by this Ordinance, the following shall apply:

1. Landscaping shall be provided as required in Article III.
2. Any landscaped area protected for use in the afforestation or reforestation requirements of the Cecil County Forest Conservation Regulations shall meet the standards outlined in the Cecil County Forest Conservation Regulations for area, size, density and materials.

### **Section 185. Landscape Plan Required**

1. Landscape design and landscape planning shall be guided by an overall landscape plan, which may be approved in sections by the Department of Land Use and Development Services, but must follow an overall harmonious theme designed to provide an aesthetically pleasing result.
2. The landscape plan shall be approved prior to final site plan and/or final subdivision plat approval. The plan shall show the information required for a planting plan found in the Cecil County Forest Conservation Regulations Technical Manual.

### **Section 186. Street Trees Requirements**

1. Along both sides of all newly created streets a developer shall plant or retain sufficient trees so that, for every fifty (50) feet of street frontage, there is at least one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter.
  - a) A ten foot wide planting easement shall be established on each newly created lot for the purpose of permitting a developer to plant or retain sufficient trees to meet the street tree requirements.
  - b) The spacing between and/or actual placement of the street trees may be modified by the Department of Land Use and Development Services in order to create a more harmonious design or to achieve the land use goals of this ordinance and/or the Comprehensive Plan. Nothing in this section shall be construed so as to allow a lesser amount of street trees than otherwise required.
2. Street trees shall be included in a Landscape Plan and guaranteed by bond or other means acceptable to the Department of Land Use and Development Services and/or the Cecil County Planning Commission.
3. Street trees and planted buffers may count towards the required landscaping percentage as determined by the Planning Commission and/or the Department of Land Use and Development Services.

4. Calculation of area required to satisfy landscape percentages shall be done in accordance with accepted mathematical convention.

#### **Section 187. Bufferyards**

1. Standards for Bufferyard design, where required, are contained in Appendix B.
2. The Department of Land Use and Development Services or Planning Commission shall require bufferyards to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
3. As part of the overall site landscaping plan, bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Bufferyards shall not be located within a yard required in a townhouse development or planned unit development. No parking shall be permitted within any required bufferyard.
4. A bufferyard may be used for passive recreation or stormwater management. It may contain pedestrian, bike, or equestrian trails provided that:
  - a. The required planting units of the appropriate bufferyard in Appendix B are provided.
  - b. The total width of the bufferyard is maintained.
  - c. All other regulations of the Ordinance are met.
5. Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the extent that existing vegetation is or will be inadequate to meet the standards set herein, a landscape plan meeting all of the requirements herein must be submitted.
6. All plantings shall be inspected by the County upon notification by the developer or owner, and shall be approved according to the following standards:
  - a. The planting shall adhere to the approved plan. Substitutions or revisions may be made in writing with the approval of the Department of Land Use and Development Services.
  - b. All plants shall be protected from vehicular encroachment by wheelstops, curbs or other barriers unless distance provides adequate protection.
  - c. No planting shall result in vegetative growth exceeding thirty-six (36) inches in height, within thirty (30) feet of any street intersection or otherwise obstruct sightlines.



7. All service structures in attached housing projects shall be fully screened by a bufferyard meeting the Bufferyard D specifications in Appendix B. All service structures in business or industrial zones shall be similarly, and fully, screened when located within one hundred (100) feet of a public right-of-way or residential zone.
8. For the purposes of this Article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

**Section 188. Bonding and Financial Security of Plantings**

1. The landscape plan shall be accompanied by an estimate of the installation and maintenance costs for all landscape material.
2. Upon approval of the plan and cost estimate, the developer or owner shall enter into an agreement with the County to provide plantings as required. The agreement shall be in a form and substance as approved by the Department of Land Use and Development Services and shall be accompanied by a performance bond or other approved surety executed by the owner or developer in the amount of two hundred (200) percent of proposed plant materials, labor and maintenance costs. The surety shall:
  - a. Assure that the bufferyard planting and maintenance is in accordance with the approved planting plan;
  - b. Be payable to the Director of Finance for Cecil County;
  - c. Be issued by a financial institution authorized to do business in Maryland;
  - d. Executed prior to recordation or final plan approval; and
  - e. May not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
    - (1) The Department of Land Use and Development Services and the obligee are notified in writing by registered mail of the intent to cancel not less than ninety (90) days prior to the cancellation; and
    - (2) At least forty-five (45) days prior to the cancellation date indicated in the notice, the obligee files a commitment for a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
  - f. Any surety, bank, or other issuing entity that cancels the financial security without meeting the requirements of the previous section shall be subject to penalties as outlined in Article XIX of this Ordinance.
3. The person required to provide financial security under this Section may request reduction of the amount of the financial security by submitting a written request to the Department of

Land Use and Development Services with a justification for reducing the financial security amount, including estimated or actual costs to ensure requirements are met. The amount may be reduced by no more than fifty (50) percent of the initial financial security amount. At the time of the reduction request the person may also change the type of guarantee with the approval of the Department of Land Use and Development Services. The request for release of a bond shall follow the schedule outlined below. The release dates given are the earliest dates from which any release may be granted. Releases are not guaranteed and shall reflect the success rate of the landscape plan being inspected.

<u>Plant Date</u>	<u>Partial Release</u>	<u>Full Release</u>
before 5/15	9/15 same year	9/15 following year
5/15 - 6/30	6/1 following year	9/15 following year
after 6/30	9/15 following year	9/15 second year

4. The Department of Land Use and Development Services will determine if a lesser amount of financial security is sufficient to cover the costs associated with the landscape plan, taking into account:
  - (a) number of acres;
  - (b) the proposed methods of planting and maintenance;
  - (c) the cost of planting materials, labor and maintenance replacement;
  - (d) the types of material used; and
  - (e) other relevant factors.
  
5. If, after the dates for full release given in subsection 3 above, the plantings associated with the planting plan meet or exceed the standards contained in the approved landscape plan, the amount of the cash bond or other financial security shall be released. The full or complete release of the financial security shall follow the procedure below:
  - (a) The financial security may be released on receipt of written notice from the Department of Land Use and Development Services stating that all the planting requirements have been met.
  - (b) Written notice shall be sent at the end of the required monitoring and maintenance period unless as provided in Subsection 6 below or non-compliance with this Section is determined by the Department of Land Use and Development Services.
  - (c) If the Department of Land Use and Development Services fails to send written notice by the end of the monitoring and maintenance period the financial security shall be automatically released unless as provided in Subsection 6.
  
6. Forfeiture of Bonding or Financial Security.
  - (a) Forfeiture of the bond or financial security may be required if the obligee fails to:
    - (1) implement the landscape plan or any element thereof; or

- (2) implement a corrective action necessary to complete or carry-out the landscape plan as determined by the Department of Land Use and Development Services.
- (b) The Department of Land Use and Development Services shall notify the obligee, by certified mail, of the intention of the Department of Land Use and Development Services to initiate forfeiture proceedings.
- (c) The obligee has thirty (30) days from the receipt of the notice of forfeiture to show cause why the bond or financial security may not be forfeited.
- (d) If the obligee fails to show cause, the bond or financial security shall be forfeited.
- (e) The Department of Land Use and Development Services shall use the forfeited bond or financial security to perform the planting plan.

**Section 189. Modification to Bufferyards from Collector or Arterial Roadways**

Bufferyards are designed to lessen the impact of new development by providing screening and, as such, are required along collector and arterial roadways in major subdivisions. It is recognized however, that rural character and/or agriculture could be better preserved if the location and/or extent of the bufferyard is modified. Therefore, the Planning Commission may modify the location of the required bufferyards in major subdivisions to maintain open vistas and/or to better screen the new development from the adjacent collector or arterial roadways. The Planning Commission may also reduce or eliminate the bufferyard requirement to the extent that existing site conditions provide for adequate screening of the new development from the adjacent collector or arterial roadways. This section does not apply to bufferyards from agricultural uses.

**Section 190. Reserved**

ARTICLE XI      OVERLAY ZONES  
Part I            **Critical Area District**

**Section 191.      Statement of Intent, Purpose, Applicability, Implementation, Findings,  
Requirements and Definitions**

1.      In 1984, the Maryland General Assembly passed the Chesapeake Bay Critical Area Act in response to growing concern over the decline of the quality and productivity of the waters of the Chesapeake Bay and its tributaries. The decline was found to have resulted, in part, from the cumulative effects of human activity that caused increased levels of pollutants, nutrients, and toxins, and also from declines in protective land uses such as forest land and agricultural land in the Bay region. In 2002, the Atlantic Coastal Bays were added to the Critical Area because these bays were experiencing a similar decline.
  
2.      The General Assembly enacted the Critical Area Act for the following purposes:
  - (a)      To establish a resource protection program for the Chesapeake Bay and Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize impacts to water quality and natural habitats; and
  
  - (b)      To implement a resource protection program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight.
  
3.      The goals of the Critical Area Program are to accomplish the following:
  - (a)      Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
  
  - (b)      Conserve fish, wildlife, and plant habitat; and
  
  - (c)      Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.
  
4.      The purpose of the Cecil County Critical Area District is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources located within the County's Chesapeake Bay Critical Area. These regulations and measures govern development activities and resource utilization activities, e.g., agriculture and forestry, within the Critical Area. They supplement existing land use regulations by imposing specific

standards and requirements as set forth in the Critical Area Act and criteria. The Critical Area regulations and measures as set forth herein and in any other applicable regulations, supersede any inconsistent law, section, plan or program of the County. In the case of conflicting provisions, the stricter provisions shall apply. The geographic area for which the following district regulations apply shall be those lands and waters located within one thousand (1,000) feet of the landward boundaries of all tidal waters and tidal wetlands as designated on the Official Cecil County Chesapeake Bay Critical Area Maps.

5. No person shall develop, alter, or use any land for residential, commercial, industrial, or institutional uses, nor conduct agricultural, fishery or forestry activities in the Cecil County Critical Area except in compliance with the applicable provisions contained herein.
6. The intent of the Critical Area District is to provide special regulatory protection for the natural resources located within the County's Chesapeake Bay Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this end, no development or resource utilization activity shall be permitted until the applicable approving authority shall make specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.
7. The County adopted its Critical Area Program on July 5, 1988. The Program consists of this ordinance, the County's Critical Area maps, and the County's subdivision regulations.
8. Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Administrator after review and approval under the County's Critical Area Program.
9. The County shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in Appendix A to the Critical Area Commission for review and comment. The application shall be accompanied by a completed "Project Notification Application" form. The Commission shall send written notification of receipt of the application before the close of the next business day. The County may not process an application which has been sent to the Commission for notification until it has received notice of receipt by the Commission. Any action by the County in violation of these procedures shall be void.
10. The County's Critical Area Program and all applicable provisions of this ordinance shall be implemented and enforced by the County Department of Land Use and Development Services and the Department of Public Works. Should an infraction of the

provisions contained in any law, regulation, or plan related to the County's Critical Area Program be brought to the attention of any County official, said official shall contact the Zoning Administrator who may consult with the County Attorney to determine the proper remedial course of action. If appropriate, the Zoning Administrator shall inform the Critical Area Commission about the infraction and any decision made regarding remedial action. The Commission, at its discretion, may also take remedial action under the authority it is given under State law.

11. For the purpose of implementing this Part, the following words have the following meanings. In the case of conflicts with other definitions, the stricter provisions shall apply.

*Accessory* means a structure that is:

- (a) Detached from a principal structure;
- (b) Located on the same lot as the principal structure; and
- (c) Customarily incidental and subordinate to the principal structure.

*Addition* means a newly constructed area that increases the size of a structure.

*Afforestation* means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

*Agriculture* means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

*Agricultural easement* means a nonpossessory interest in land which restricts the conversion of the use of the land, preventing nonagricultural uses.

*Anadromous fish* means fish that travel upstream (from their primary habitat in the ocean) to freshwaters in order to spawn.

*Application* means whatever initial forms, documents, plats or other materials that are officially submitted to the County for the approval of subdivision plats, consolidation, reconfigurations, site plans, grading permits, rezoning (including the consideration of areas within floating zones), the issuance of zoning permits, Special Exceptions, or conditional use permits.

- (a) *Application* includes substantial changes to the items above.
- (b) *Application* does not include those materials submitted for the approval of building permits.

*Aquaculture* means the farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments.

- a) Activities include the hatching, cultivating , planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas.
- b) Cultivation methods include, but are not limited to, seed or larvae development and grow-out facilities, fish pens, shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing, and product storage facilities are not considered aquacultural practices.

*Barren land* means unmanaged land having sparse vegetation.

*Best management practices (BMPs)* means conservative practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

*Buffer* means an area that:

- (a) Based on conditions present at the time of development, is immediately landward from mean high water of tidal waters, the edge of bank of a tributary stream, or the edge of a tidal wetland;
- (b) Exists or may be established in natural vegetation to protect a stream, tidal wetland, tidal water, or terrestrial environment from human disturbance;
- (c) Includes an area of at least one hundred ten (110) feet, even if that area was previously disturbed by human activity; and
- (d) Expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

*Buffer exemption area* means an area of land that:

- (a) Where a pattern of residential, industrial, commercial, or recreational development existed in the one hundred ten (110) foot Buffer on December 1, 1985 in the Chesapeake Bay Critical Area; and
- (b) That, as part of the approved Cecil County Program, is shown on a map maintained on file by the local jurisdiction and is subject to modified development provisions.

*Buffer Management Plan*, including *Major*, *Minor*, or *Simplified Buffer Management Plan*, means a narrative, graphic description, or plan of the buffer that is necessary when an applicant proposes a development activity that will:

- (a) Affect a portion of the Buffer;
- (b) Alter Buffer vegetation; or
- (c) Require the establishment of a portion of the buffer in vegetation.

*Business Unit* means a nonresidential building used for office space, wholesale, or retail marketing.

*Caliper* has the meaning stated in COMAR 08.19.03.01.

*Canopy tree* means a tree that, when mature, reaches a height of at least thirty-five (35) feet.

*Clearcutting* means the removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut, from advanced regeneration or stump sprouts, or from planting of seeds or seedlings by man.

*Cluster development* means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

*Colonial nesting water birds* means herons, egrets, terns, and glossy ibis. For purposes of nesting, these birds congregate (i.e., “colonize”) in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

*Commercial harvesting* means a commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain.

*Community piers* means boat docking facilities associated with subdivisions and smaller residential areas, and with condominium, apartment, and other multiple-family dwelling units. Private piers are excluded from this definition.

*Conservation easement* means a nonpossessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.



*Consolidation* means a combination of any legal parcels of land or recorded, legally buildable lots into fewer parcels or lots. *Consolidation* includes any term used for a development application that proposes to combine parcels of land or recorded, legally buildable lots into fewer parcels or lots than the number that existed before the application, such as a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.

*Cover crop* means the establishment of a vegetative cover to protect soils from erosion and to restrict pollutants from entering the waterways. Cover crops can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat, or soybean stubble which maximize infiltration and prevent runoff from reaching erosive velocities.

*Critical Area* means all lands and waters defined by the County's approved Critical Area Program, pursuant to Natural Resources Article, §8-1807, Annotated Code of Maryland. They include:

- (a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Natural Resources Article, Title 9, Annotated Code of Maryland;
- (b) All land and water areas within one thousand (1,000) feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Natural Resources Article, Title 9, Annotated Code of Maryland; and
- (c) Modification to these areas through inclusion or exclusions proposed by the County and approved by the Critical Area Commission as specified in Natural Resources Article, §8-1807, Annotated Code of Maryland.

*Density* means the number of dwelling units per acre within a defined and measurable area.

*Developed woodlands* means an area of trees and natural vegetation interspersed with residential, commercial, industrial, institutional, or recreational development.

*Developer* has the meaning stated in Natural Resources Article, §8-1802 (a), Annotated Code of Maryland.

*Development* means any construction, reconstruction, modification, extension, or expansion of buildings or structures, land excavation, land clearing for nonagricultural or nonforestry purposes, land improvements, or any combination of these. The activities shall materially affect the condition or use of dry land, land under water, or any structure.

*Development activity* means human activity that results in disturbance to land, natural vegetation, or a structure.

*Development envelope* includes an individually owned lot, the lot coverage on that individually owned lot, a road, a utility, a stormwater management measure, an onsite sewage disposal measure, any area subject to human use such as an active recreation area, any required buffers, and any additional acreage necessary to meet the requirements of the Program.

*Disturbance* means any alteration or change to the land. *Disturbance* includes any amount of clearing, grading, or construction activity. *Disturbance* does not include gardening or maintenance of an existing grass lawn.

*Documented breeding bird areas* means forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

*Dwelling unit* has the meaning stated in Natural Resources Article, Section 8-1802 (a), Annotated Code of Maryland.

*Ecosystem* means a more or less self-contained biological community together with the physical environment in which the community's organism occur.

*Establishment* means the planting or regeneration of native vegetation throughout the Buffer.

*Excess stormwater runoff* means all increases in stormwater resulting from:

- (a) An increase in lot coverage on the site, including all additions to buildings, roads, and parking lots;
- (b) Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- (c) Alteration of drainageways or regarding of slopes;
- (d) Destruction of forest; or
- (c) Installation of collection systems to intercept street flows or to replace swales or other drainageways.

*Financial assurance* means a performance bond, letter of credit, cash deposit, or other instrument of security acceptable to a local jurisdiction.

*Fisheries activities* means commercial water-dependent fisheries facilities including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as

wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

*Forest* has the meaning stated Natural Resources Article, Section 5-1601, Annotated Code of Maryland.

*Forest interior dwelling birds* means species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

*Forest practice* means the alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, aesthetic, or water quality values.

*Habitat protection area* means an area that is designed for protection under Natural Resources Article, Section 8-1806, Annotated Code of Maryland, regulations adopted under that authority, or the County's Critical Area Program, or by the Secretary of the Maryland Department of Natural Resources. *Habitat protection area* includes:

- (a) The Buffer as defined in COMAR 27.01.09.01A;
- (b) A nontidal wetland as defined in COMAR 26.24.01.02B;
- (c) A habitat of a threatened species as defined in COMAR 27.01.09.03A;
- (d) A habitat of an endangered species as defined in COMAR 27.01.09.03A;
- (e) A habitat of a species in need of conservation as defined in COMAR 27.01.09.03A;
- (f) A plant habitat as defined in COMAR 27.01.09.04A;
- (g) A wildlife habitat as defined in COMAR 27.01.09.04A; and
- (h) Anadromous fish propagation waters as defined in COMAR 27.01.09.05A.

*Highly erodible soils* means those soils with a slope greater than fifteen (15) percent or those soils with a K value greater than 0.35 and with slopes greater than five (5) percent.

*Historic waterfowl staging and concentration area* means an area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are *historic* in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

*Hydric soils* means soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

*Hydrophytic vegetation* means those plants cited in “Vascular Plant Species Occurring in Maryland Wetlands” (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in wet habitats).

*IDA* means those properties that have been designated by the County and approved by the Critical Area Commission as intensely developed areas.

*In-kind replacement* means the removal of a structure and the construction of another structure that is smaller than or identical to the original structure in use, footprint area, width, and length.

*Invasive species* means a type of plant that is non-native to the ecosystem under consideration and whose introduction causes, or is likely to cause, economic or environmental harm to human health.

*K Value* means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

*Land-based aquaculture* means the raising of fish or shell fish in any natural or man-made, enclosed or impounded, water body.

*Land clearing* means any activity that removes the vegetative ground cover.

*Landforms* means features of the earth’s surface created by natural causes.

*Landward edge* means the limit of a site feature that is farthest away from a tidal water, tidal wetland, or tributary stream.

*Large shrub* means a shrub that, when mature, reaches a height of at least six (6) feet.

*LDA* means those properties that have been designated by the County and approved by the Critical Area Commission as limited development areas.

*Lot coverage* has the meaning stated in Natural Resources Article, Section 8-1802 (a), Annotated Code of Maryland.

*Major buffer management plan* means a plan and supporting documentation required under Regulation .01-3J, COMAR 27.01.09.01.

*Marina* means any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.

*Mean high water line* means the average level of high tides at a given location.

*Minor buffer management plan* means a plan and supporting documentation required under Regulation .01-3I, COMAR 27.01.09.01.

*Mitigation* means an action taken to compensate for an adverse impact to the environment resulting from a development activity or a change in land use or intensity,

*Native* means indigenous to the physiographic area in Cecil County where the planting is proposed.

*Natural features* means components and processes present in or produced by nature, including, but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.

*Natural heritage area* means any communities of plants or animals which are considered to be among the best Maryland statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.

*Natural regeneration* means the natural establishment of trees and other vegetation with at least four hundred (400) woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least twenty (20) feet at maturity.

*Natural vegetation* means those plants communities that develop in the absence of human activities.

*Nature-dominated* means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human intervention.

*Nonpoint source pollution* means pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage rather than by deliberate discharge. Nonpoint source pollution is not generally corrected by "end-of-pipe" treatment, but rather, by changes in land management practices.

*Nonrenewable resources* means resources that are not naturally regenerated or renewed.

*Nontidal wetland* has the meaning stated in COMAR 26.23.01.01.

*Offsets* means structures or actions that compensate for undesirable impacts.

*Open space* means land and water areas retained in an essentially undeveloped state.

*Overburden* means the strata or material in its natural state, before its removal by surface mining, overlaying a mineral deposit, or in between mineral deposits.

*Palustrine* means all nontidal wetlands dominated by trees, shrubs, persistent emergent plants, or emergent mosses or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is below one-half part per thousand (1,000) parts of water.

*Physiographic features* means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

*Port* means a facility or area established or designated by the State or County for purposes of water-borne commerce.

*Private harvesting* means the cutting and removal of trees for personal use.

*Project approvals* means the approval of development, other than development by a State or County agency or department, in the Chesapeake Bay Critical Area by the County. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

*Public water-oriented recreation* means shore-dependent recreation facilities or activities provided by public agencies which are available to the general public.

*Reclamation* means the reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including waterbodies.

*RCA* means those properties that have been designated by the County and approved by the Critical Area Commission as resource conservation areas.

*Reconfiguration* means a change of the arrangement of the existing lot or parcel lines of any legal parcel of land or recorded, legally buildable lots. *Reconfiguration* includes any term used for a development application that proposes to change the arrangement of the existing lot or parcel lines of any legal parcel of land or recorded,

legally buildable lot that existed before the application, such as a subdivision, lot line adjustment, boundary line adjustment, replatting request, or a revision of acreage to increase density.

*Redevelopment* means the process of developing land which is or has been developed.

*Reforestation* means the establishment of a forest through artificial reproduction or natural regeneration.

*Renewable resource* means a resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

*Residential use* means the use of a structure by one or more persons for the purpose of maintaining a common household. The cooking or sanitary facilities of the structure are only for the use of the occupants of the structure.

*Riparian habitat* means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

*Road* means a public thoroughfare under the jurisdiction of the State, County, or any other public body. *Road* does not include a drive aisle or driveway.

*Seasonally flooded water regime* means a condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

*Selection* means the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

*Sensitive area* means a contiguous area, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

*Significantly eroding areas* means areas that erode two (2) feet or more per year.

*Simplified buffer management plan* means a plan required for an application under Regulation .01-3H, COMAR 27.01.09.01.

*Soil conservation and water quality plans* means land-use plans for farms that show farmers how to make the best possible use of their soil and water resources while

protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

- (a) How the landowner plans to treat a farm unit;
- (b) Which best management practices the landowner plans to install to treat undesirable conditions; and
- (c) The schedule for applying those best management practices.

*Small shrub* means a shrub that, when mature, reaches a height of up to six (6) feet.

*Species in need of conservation* means those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of the Maryland Department of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article, Sections 4-2A-03 and 10-2A-06, Annotated Code of Maryland.

*Spoil pile* means the overburden and reject materials as piled or deposited during surface mining.

*Steep slopes* means slopes of fifteen (15) percent or greater.

*Structure* means building materials that are purposely joined together on or over land or water, including those that do not result in lot coverage.

*Subdivision* means the division of a parcel of land into two or more lots for the purpose of transfer of ownership or for development. This includes subdivision pursuant to Natural Resources Article, Section 8-1808.2, Annotated Code of Maryland, and the creation of a condominium regime pursuant to Real Property Article, Section 11-101 et seq., Annotated Code of Maryland.

*Substantial alteration* means a repair, reconstruction, replacement, or improvement of a principal structure, with a proposed total footprint that is at least fifty (50) percent greater than that of the structure that is the subject of the application.

*Thinning* means a forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

*Topography* means the existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

*Transitional habitat* means a plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.



*Transportation facilities* means anything that is built, installed, or established to provide a means of transport from one place to another.

*Tributary streams* has the meaning stated in Natural Resources Article, Section 8-1802(a), Annotated Code of Maryland.

*Understory tree* means a tree that, when mature, reaches a height of twelve (12) to thirty-five (35) feet.

*Upland boundary* means the landward edge of a tidal wetland or nontidal wetland.

*Utility transmission facilities* means fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electric lines, water conduits, and sewer lines.

*Wash plant* means a facility where sand and gravel is washed during processing.

*Water-based aquaculture* means the raising of fish and shellfish in any natural, open, free-flowing water body.

*Water-use industry* means an industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

*Waterfowl* means birds which frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

*Wildlife corridor* means a strip of land having vegetation that provides habitat and a safe passageway for wildlife.

## **Section 192. Official Critical Area District Maps**

- 1.** Official Critical Area District Maps shall be prepared and maintained in force as part of the Official Zoning Maps of the County. They shall delineate the extent of the Critical Area District that shall correspond to the Chesapeake Bay Critical Area. Within the Critical Area District, there shall be three land use management area classifications, which shall be shown on the Official Critical Area Maps:
  - a.** Intensely Developed Areas (IDA's);
  - b.** Limited Development Areas (LDA's); and
  - c.** Resource Conservation Areas (RCA's).

Note - These land use management areas correspond to the definitions established in the Chesapeake Bay Critical Area law and criteria, as amended, for each area and specifically as identified on the Official Cecil County Chesapeake Bay Critical Area maps, adopted as part of the Cecil County Critical Area Program. Mapped land use management area classifications are based on land uses established on or before December 1, 1985, except for areas where the land use classification may be changed by granting the Growth Allocation (GA) or the Special Growth Allocation (SGA) floating zone district classification as provided in Sections 204 through 213. The Critical Area District Maps may be amended by the County Council in compliance with amendment provisions in this Ordinance, the Maryland Critical Area Law and Critical Area Criteria.

2. The Critical Area shall include all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
  - a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland.
  - b. All land and water areas within 1,000 feet beyond the landmark boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and
  - c. Modification to these areas through inclusions or exclusion proposed by local jurisdictions and approved by the commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
3. The County Council may elect to adjust the Critical Area Boundary to delete areas of the County from the Critical Area District only at such time as new Official Wetland Maps are adopted by the State of Maryland or an area of the Critical Area has been approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays for exclusion. The County Council may also elect to add areas to the Critical Area at any time, subject to approval by the Critical Area Commission. Such changes shall be treated as amendments to the Critical Area District.

**Section 193. Density Provisions**

1. Density in the Intensely Developed Areas (IDAs) shall be as established in the underlying base zone.
2. The development density and minimum lot sizes permitted within a Limited Development Area (LDA) shall be governed by prescriptive densities within the applicable underlying base zoning districts that permit residential use, however in no case may the permitted density

exceed 3.99 units per acre. Determination of density shall be based on the gross site area of the parcel prior to development.

3. Residential densities (not lot sizes) in Resource Conservation Areas (RCAs) shall not exceed one (1) unit per twenty (20) acres regardless of densities permitted in applicable underlying base zones, except as provided below. Determination of density shall be based on the gross site area of the parcel, excluding tidal wetlands. Within a Resource Conservation Area, the County may consider one additional dwelling unit per lot or parcel as part of the primary dwelling unit for the purpose of the density calculation under this subsection if the additional dwelling unit meets either of the following sets of conditions:

- a. (1) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit;

- (2) Does not exceed 900 square feet in total enclosed area; and

- (3) Is served by the same sewage disposal system as the primary dwelling unit; or

- b. (1) Is located within the primary dwelling unit;

- (2) By its construction, does not increase the amount of lot coverage already attributed to the primary dwelling unit; and

- (3) Is served by the same sewage disposal system as the primary dwelling unit.

- c. An additional dwelling unit meeting all the criteria of this section that is separate from the primary dwelling unit may not be subdivided or conveyed separately from the primary dwelling unit.

- d. The provisions of this section apply to density calculations only and may not be construed to authorize the County to grant a variance, unless the variance is granted in accordance with the requirements and standards in this ordinance for variances in the Critical Area.

- e. The County shall maintain records of all building permits issued under this section for additional dwelling units considered part of a primary dwelling unit, and shall provide this information on a quarterly basis to the Critical Area Commission.

4. In determining residential densities for a site, private wetlands may be included in the calculation of one (1) unit per twenty (20) acre density provided the development density on the upland portion of the site does not exceed one (1) dwelling unit per eight (8) acres. The area of private wetlands shall be estimated on the basis of vegetative information as

designated on the State wetland maps or by private survey approved by the County, the Commission, and the State Department of the Environment.

- a.** Minimum lot sizes shall be governed by standards applicable to the underlying base zoning districts.
- b.** The one (1) unit per twenty (20) acre density limitation shall not prevent a bona fide intrafamily transfer subject to the following limitations:
  - (1)** Intrafamily transfers will be permitted on portions of certain parcels in the Critical Area where it is shown that the parcel was recorded on or before March 1, 1986 and where such parcel is at least seven (7) acres and not more than sixty (60) acres in size.
  - (2)** A bona fide intrafamily transfer shall be subject to all requirements of the Cecil County Subdivision Regulations. A notation shall be placed on the final subdivision plat denoting the lot(s) that are created under these provisions.
  - (3)** Subdivision of land under the bona fide intrafamily transfer provision contained herein shall be subject to the following limitations:
    - (a)** Parcels 7 acres to less than 12 acres cannot be subdivided into more than a total of 2 lots.
    - (b)** Parcels 12 acres to less than 60 acres cannot be subdivided into more than a total of 3 lots.
  - (4)** A lot created pursuant to these provisions may not be subsequently conveyed to any person except as provided herein:
    - (a)** Where the conveyance is to a member of the owner's immediate family.
    - (b)** Where the conveyance of the lot is as part of a default on a mortgage or deed of trust.
  - (5)** Lots created pursuant to these provisions shall not be created for purposes of ultimate commercial sale. In addition, any lot created under this section may not be transferred or sold to a third party that is not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, unless and until the Planning Commission has determined that the following can be conclusively proved:

- (a) A change in circumstances has occurred since the original transfer, not of the owner's own doing, that would warrant permitting a subsequent transfer, when such circumstances are consistent with the warrants and exceptions contained herein; or
  - (b) Other circumstances necessary to maintain land areas to support protective uses of agriculture, forestry, open space, and natural habitats in RCA's warrant an exception.
- c. Deeds of transfer shall include the provisions contained in (5) above as covenants. Such covenants shall prevent the subsequent transfer or sale of a lot or lots created pursuant to the intra-family transfer provisions contained herein to a third party, not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, except as provided in (5) above.

**Section 194. Nonconforming Development in the Critical Area District (Grandfathering Provisions)**

1. An individual unimproved lot or parcel of land located within the Cecil County Critical Area District may be improved in a Resource Conservation Area (RCA) in accordance with Section 201 and otherwise developed in accordance with Section 200 in a Limited Development Area (LDA) and Section 199 in an Intensely Developed Area (IDA) provided they comply with the provisions of Section 197 and 198. The County shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of Program approval, unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of this ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in the variances Chapter of this ordinance.
2. Except as otherwise provided, the County shall permit the types of land described in the following paragraphs to be developed in accordance with density requirements in effect prior to the adoption of the Critical Area Program notwithstanding the density provisions of the Program. The County shall permit a single-lot or parcel of land that was legally of record in Cecil County prior to July 5, 1988 to be developed with a single-family dwelling if a dwelling is not already placed there (not withstanding that such development may be inconsistent with the density provisions of this ordinance) provided that:
  - a. It is on land where development activity has legally progressed to the point of pouring foundation footing or installation of structural members.
  - b. It is a legal parcel of land, not being part of a recorded or approved subdivision, that was

recorded as of December 1, 1985 and land that was subdivided into recorded, legally buildable lots, where the subdivision received the County's final approval prior to June 1, 1984, if :

- (1) At the time of development, the land is brought into conformance with the Critical Area Program in-so-far-as possible including the consolidation or reconfiguration of lots not individually owned in existing subdivisions and these procedures are approved by the Critical Area Commission.
  - (2) The land has received a building permit subsequent to December 1, 1985, but prior to local Program approval (July 5, 1988).
- c. It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received the County's final approval between June 1, 1984 and December 1, 1985; and
  - d. It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985 and provided that either development of any such land conforms to the IDA, LDA, or RCA requirements in this chapter or the area of the land is counted against the growth allocation permitted under this ordinance.
3. All development permitted under this section shall comply with the Habitat Protection Area and Water-Dependent Facilities standards of this Part.
  4. Lot Consolidation and Reconfiguration.
    - a. Except as provided under Section B of this chapter and notwithstanding the location of the affected lot or parcel in a Modified Buffer Area, the provisions of this regulation shall apply to a consolidation or reconfiguration of:
      - i. Any legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;
      - ii. Land that was subdivided into recorded legally buildable lots, where the subdivision received the local jurisdiction's final approval before June 1, 1984;
      - iii. Land that was subdivided into recorded, legally buildable lots, where the subdivision received the local jurisdiction's final approval after December 1, 1985, and before the date of the jurisdiction's program approval;
    - b. Any consolidation or reconfiguration of any legal parcel of land or recorded legally buildable lot(s) will meet the goals of the County Critical Area Program set forth in

Section 191 of this ordinance, to the extent possible, and shall not increase or intensify development activities or human activities in the Buffer or any other Habitat Protection Area beyond what would have resulted from the existing lot configuration.

- c. An application to a local jurisdiction for the consolidation or reconfiguration of any legal parcel of land or recorded legally buildable lot shall contain at least the following information:

(1) The date of recordation of each legal parcel of land or legally buildable lot to be consolidated or reconfigured;

(2) A plan drawn to scale in accordance with local procedures;

(3) Information sufficient for the local jurisdiction to make the findings set forth in Section D of this chapter;

(4) A plan that shows all existing and proposed lot or parcel boundaries; and

(5) A table that lists the number of all legal parcels of land or recorded legally buildable lot and the number of proposed lots or parcels or dwelling units to be derived.

- d. The commission or its designee shall review a proposed lot consolidation or reconfiguration and will make written findings that each one of the following standards has been met:

(1) The proposed consolidation or reconfiguration will result in no greater number of lots, parcels, or dwelling units in the Critical Area than the existing configuration would allow;

(2) The proposed lot consolidation or reconfiguration will result in no greater lot coverage than the existing configuration would allow;

(3) The proposed consolidation or reconfiguration does not:

a. Create an additional riparian lot or parcel, waterfront lot, or any other lot or parcel deeded with water access; or

b. Intensify or increase impacts associated with riparian access;

(4) The proposed consolidation or reconfiguration does not create:

a. A lot or parcel or portion of a lot or parcel that will serve development

activities outside the Critical Area; or

- b. A Resource Conservation Area lot or parcel that serves development activities in the Limited Development Area;
- (5) The proposed consolidation or reconfiguration identifies each Habitat Protection Area;
- (a) If the proposed consolidation or reconfiguration impacts a Habitat Protection Area, the proposal includes protective measures and restoration measures proposed that provide for the least possible adverse impact;
  - (b) Results in no greater impact to a Habitat Protection Area than the impact that would have resulted from the existing lot configuration; and
  - (c) Minimizes adverse impacts to an Habitat Protection Area; and
- (6) The proposed consolidation or reconfiguration provides:
- (a) Stormwater management for all proposed development activities; and
  - (b) Benefits to fish, wildlife, and plant habitat that are clearly identified.
- e. A copy of a final approved action under subsection D of this regulation shall be submitted to the Commission within 30 days of the final approval, and the County may not issue a building permit until the appeal time has expired.

**Section 195. Modified Buffer Areas**

1. Definitions. For the purpose of implementing this subsection, the following words have the following meanings. (In the case of conflicts with other definitions, the stricter provisions shall apply.):
- (a) *Accessory Structure* means a detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, e.g., a shed or detached garage.
  - (b) *Bufferyard* means an area, at least 50 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for wildlife habitat and water quality and shall not be maintained in a manner that conflicts with these goals such as mowing or applying herbicides.



- (c) *Development Activity* means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation or transportation facilities or structures. Development activities include, among other things, structures, roads, parking areas, and other impervious surfaces, mining and related facilities, clearing, grading and septic systems. For purposes of implementing this policy, development activity does not include subdivision.
- (d) *Grandfathered Parcel/Lot* describes the status accorded certain parcels of land or lots that were subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.
- (e) *Modified Buffer Area* includes the minimum 110-foot Buffer and means an area officially mapped by the local jurisdiction and approved by the Critical Area Commission as a Modified Buffer Area (MBA), where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water quality protection and wildlife habitat conservation.
- (f) *Natural Forest Vegetation* means vegetation consisting of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this policy shall be designed to mimic the structure and species composition of natural forests.
- (g) *New Development* means a development activity that takes place on a property with pre-development imperviousness less than 15 percent as of December 1, 1985.
- (h) *Principal Structure* means, for the purpose of establishing setbacks, the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, excluding utilities and the septic system.
- (i) *Redevelopment* means a development activity that takes place on a property with pre-development imperviousness percent of 15% or greater as of December 1, 1985.

**2. Description.** The following provisions are intended to accommodate limited use of shoreline areas that have been mapped as Modified Buffer Areas (MBAs) under the provisions of Section 195 while protecting water quality and wildlife habitat to the greatest extent possible. This section applies only to new development or redevelopment within 110 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985 that have been identified as Modified Buffer Areas in the Cecil County Critical Area Program and approved by the Critical Area Commission.

**3. Permitted Uses:**

- a. New development or redevelopment, provided that the Development and Redevelopment Rules and Offsetting Requirements set forth below are observed.

- b. Shore Erosion Protection Measures provided that such measures are consistent with the County's shore erosion protection policies and provided that the measure has obtained all applicable State and federal permits.
- c. Cutting or clearing of trees or natural vegetation under an approved Timber Harvesting Plan or Buffer Management Plan for the following purposes only:
  - (1) For personal use provided that Buffer functions are not impaired and trees cut are replaced at a one-to one ratio and that the clearing or cutting of trees will not impair water quality or existing habitat value;
  - (2) To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank;
  - (3) In conjunction with horticultural practices used to maintain the health of individual trees;
  - (4) To provide access to private piers;
  - (5) To install or construct an approved shore erosion protection device or measure;
  - (6) To protect trees from extensive pest or disease infestation if approved by the Department of Agriculture or the Department of Natural Resources; or
  - (7) To permit the development or redevelopment allowed above to be constructed or installed.

4. Prohibited Uses: Water polluting activities including, but not limited to, storage of vehicles, fuel or chemicals.

5. **Commercial, Industrial, Institutional, Recreational, and Multi-Family Residential Development and Redevelopment Standards:** New development or redevelopment including structures, roads, parking areas, and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission or the Department of Land Use and Development Services finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:

- a. Proposed development and redevelopment activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary

streams. New subdivisions to accommodate new development shall provide a full 110-foot Buffer and be expanded, as required. Consolidation or reconfiguration of grandfathered lots in a Modified Buffer Area shall result in an overall environmental improvement within the MBA. New structures and impervious surfaces in the MBA that result from consolidation or reconfiguration of grandfathered lots shall not be located within 50 feet of the edge of tidal waters or tidal wetlands.

- b. Variances to other County setback requirements shall be considered before additional intrusion into the Buffer.
- c. Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the Buffer.
- d. New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. In cases where the applicant has demonstrated that there is no feasible alternative, new development shall not be located closer to the water (or edge of tidal wetlands) than the setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property.
- e. Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. In cases where the applicant has demonstrated that there is no feasible alternative, redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or impervious surface. Opportunities to establish a 25-foot setback shall be maximized.
- f. Development and redevelopment shall not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- g. Buffer Modification Area designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
- h. No natural vegetation may be removed in the Buffer except that required by the proposed construction and as shown on a Buffer Management Plan.
- i. Mitigation for development or redevelopment in the Buffer Modification Area approved under the provisions set forth herein shall be implemented through a Buffer Management Plan as follows:

**(1)** A forested or landscaped bufferyard, 25 feet wide, shall be established on the

project site between the development and the distance to the water. This bufferyard shall be densely planted with trees and shrubs in accordance with Table 1.

- (2) For redevelopment sites, where existing structures or those rebuilt on an existing footprint limit the area available for planting, appropriate modifications to the width of the planted bufferyard may be made on a case by case basis.

**Table 1  
Required Bufferyard Planting**

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of bufferyard	5 Trees and	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Cedar
	10 Understory Trees/Large Shrubs, and	Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry
	30 Small Shrubs and	Pepperbush, Chokeberry, Strawberry Bush, Sweetspire
	40 Herbaceous Plants, Grasses, Etc.	Wild Columbine, Butterflyweed, Common Milkweed, Asters

j. In addition to establishing a 25-foot bufferyard on site as described above, one of the following mitigation measures shall be implemented based on the following order of preference:

- (1) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 110-foot Buffer shall be planted on site in the Buffer or at another approved location.
- (2) Applicants who cannot fully comply with the planting requirements in (1) above, may use offsets to meet the mitigation requirement. Offsets include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.
- (3) Any required mitigation of offset areas shall be protected from future development through an easement, plat notes and declaration of restrictions and recorded among the land records of the County.

- (4) Modification of the mitigation standards as described in Section 200.6.b(1) does not apply.

**6. Single Family Residential Redevelopment Standards.** New development or redevelopment including structures, roads, parking areas, accessory structures and other areas of lot coverage or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission or the Department of Land Use and Development Services finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:

- (a) Both proposed new development and redevelopment shall minimize the shoreward extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).
- (b) New subdivisions to accommodate new development shall provide a full 110' buffer and be expanded, as required.
- (c) Existing principal dwelling or accessory structures in the Buffer may be replaced in the same location. Any increase in lot coverage within the Buffer shall comply fully with the requirements of this Section.
- (d) New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:
  - (1) New accessory structures may be located closer to the water or edge of tidal wetlands than the principal dwelling only if it has been determined by the Department of Land Use and Development Services that there are no other locations for the accessory structures.
  - (2) The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total.
- (e) Variances to other setback requirements shall have been considered before additional intrusion into the Buffer.
- (f) Development may not impact any Habitat Protection Areas other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- (g) No natural vegetation may be removed in the Buffer except that required by the

proposed construction and as shown on a Buffer Management Plan. The applicant will be required to maintain any other existing natural vegetation in the Buffer.

- (h) Buffer Exemption Area designation shall not be used to facilitate the filling of nontidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
- (i) Mitigation for development or redevelopment in the Buffer Exemption Area approved under the provisions set forth herein shall be implemented as follows:
  - (1) The requirements of Section 200.6 notwithstanding, natural vegetation of an area twice the extent of the footprint of the development activity within the 110-foot Buffer shall be planted on site in the Buffer or other location as may be determined by the Department of Land Use and Development Services. If it is not possible to carry out offsets or other mitigation within the Critical Area, any plantings or other habitat/water quality improvements should occur within the affected watershed.
  - (2) Applicants who cannot comply with the planting requirements may use offsets to meet the mitigation requirements. Offsets may include the removal of an equivalent area of existing impervious surface within the Buffer, the construction of best management practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.
  - (3) Any required mitigation or offset areas shall be protected from future development through an easement, plat notes, and declaration of restrictions recorded among the land records of the County.

7. **Notification Requirements.** All new commercial, industrial, institutional, recreational, multi-family residential development or redevelopment projects shall be submitted to the Critical Area Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.

8. **Review Process.** The Planning Commission shall consider the written findings of the Department of Land Use and Development Services documenting that all the Criteria in this section are met including that the disturbance to the Buffer is the least intrusion necessary. These findings shall be provided to the Planning Commission.

9. **Buffer Modification Area Mapping Standards.** The following standards shall apply for the mapping of Buffer Modification Areas.

- a. Only lots of record as of December 1, 1985 are eligible for mapping as Buffer Modification Areas.
- b. The parcel or lot being considered for Buffer Modification Area status shall contain a

Buffer that was significantly impacted by development at the time of program adoption and that prevent the Buffer from fulfilling its functions.

- c. Developed parcels or lots shall contain a Buffer intrusion by the principal structures (excluding utilities or septic systems).
- d. Undeveloped or vacant parcels or lots (i.e., infill) may be designated as a Buffer Modification Area if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development. Undeveloped lots of record in single ownership that are 200 feet deep or less may also be designated.
- e. If only part of a parcel or lot meets the criteria for designation as a Buffer Modification Area, then only portions of the parcel or lot shall be designated as a Buffer Modification Area. The portion of the parcel designated as a Buffer Modification Area will be subject to the Buffer Modification Area requirements. Portions of the property that are not designated as a Buffer Modification Area shall comply fully with the 110-foot Buffer restrictions.
- f. Any proposal by the County for designation of an area as a Buffer Modification Area shall include, at a minimum, a written evaluation and supporting reasons which demonstrate the degree to which the proposed Buffer Modification Area does not perform each of the following Buffer functions:
  - (1) Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
  - (2) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
  - (3) Maintain an area of transitional habitat between aquatic and upland communities;
  - (4) Maintain the natural environment of streams; and
  - (5) Protect riparian wildlife habitat.

## **Section 196. Buffer Requirements**

- 1. Identification of the Buffer.** Tidal Waters, Tidal Wetlands, and Tributary Streams no-disturbance Buffer. *“Buffer” means an area that, based on conditions at the time of development, is immediately landward from mean high water of tidal waters, the edge of bank of a tributary stream, or the edge of a tidal wetland; and exists or may be established in natural vegetation to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.* The Buffer includes an area that is *at least 110 feet* (except in the RCA, wherein the Buffer shall have a minimum depth of two hundred (200) feet), *even if that*

*area was previously disturbed by human activity; and expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.*

- a. Where a tract of land borders tidal water, tidal wetlands, or tributary streams in the Critical Area, a Buffer of at least one hundred and ten (110) feet, or a Buffer of at least two hundred (200) feet within the RCA, shall be established landward of the mean high water line, tributary streams, and tidal wetlands in natural vegetation.

**2. General policies.** The County adopts the following policies with regard to the functions of the Buffer:

- a. Provide for the removal or reduction of sediments, nutrients and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- b. Minimize the adverse effects of human activities on wetlands, shoreline, stream banks, tidal waters and aquatic resources;
- c. Maintain an area of transitional habitat between aquatic and upland communities;
- d. Maintain the natural environment of streams; and
- e. Protect riparian wildlife habitat.

**3. Buffer Standards.** The following criteria apply to land use activities within the Buffer:

- a. A disturbance in the Buffer may be authorized for:
  - (1) A new development activity or a redevelopment activity:
    - (A) Associated with a water-dependent facility under COMAR 27.01.03;
    - (B) Located in an approved buffer exemption area under Section 196.10; or
    - (C) In accordance with Section 196.3.h.
  - (2) In accordance with COMAR 26.24.02, a shore erosion control measure under COMAR 27.01.04.
- b. Except as authorized under Section 196.3.a, no disturbances in the Buffer may be authorized.
- c. Except for the minimum buffer widths under Sections 196.3.e -- 196.3.h, a Buffer is established, under Sections 196.1 and 196.1.a, of at least one hundred and ten (110) feet



landward from:

- (1) The mean high water line of tidal waters;
  - (2) The edge of each bank of a tributary stream; and
  - (3) The upland boundary of a tidal wetland.
- d. For purposes related to the calculation of the minimum buffer widths under Sections 196.3.e -- 196.3.h, the applicant shall measure landward from points specified under Sections 196.3.c and 196.3.d.
- e. Except as provided under Section 196.3.f, and in accordance with Sections 196.1 and 196.3.d, if final approval for a subdivision or site plan in the Resource Conservation is granted after July 1, 2008, the following shall be established:
- (1) An expanded buffer in accordance with Sections 196.3.g and 196.3.h; and
  - (2) A buffer of at least two hundred (200) feet from tidal waters or a tidal wetland.
- f. The provisions of Section 196.3.e(2) do not apply if:
- (1) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded by July 1, 2010;
  - (2) The application involves the use of growth allocation; or
  - (3) **Reserved**
- g. If a buffer is contiguous to a steep slope, a nontidal wetland, a nontidal wetland of special State concern under COMAR 26.23.06.01, a hydric soil, or a highly erodible soil, the minimum buffer required under Sections 196.1, 196.3.c, or 196.3e shall be expanded to the extent calculated in accordance with the following requirements:
- (1) A steep slope at a rate of four (4) feet for every one (1) percent of slope or the top of slope, whichever is greater;
  - (2) A nontidal wetland of special State concern to include the wetland and its regulated one hundred and ten (110) foot buffer;
  - (3) A nontidal wetland that is not a nontidal wetland of special State concern, to the upland boundary of the nontidal wetland; and
  - (4) A highly erodible soil on a slope less than fifteen (15) percent or a hydric soil, to the lesser of:

- (A) The landward edge; or
  - (B) Three hundred (300) feet, including the minimum buffer required under Sections 196.1, 196.3.c, or 196.3e.
- h. If a buffer is contiguous to a highly erodible soil on a slope less than fifteen (15) percent or a hydric soil and is located on a lot or parcel that was created before January 1, 2010, a development activity in the expanded buffer may be authorized, if:
- (1) The location of the development activity is in the expanded portion of the buffer for a highly erodible soil on a slope less than fifteen (15) percent or a hydric soil, but not the one hundred and ten (110) foot, or, in the Resource Conservation Area the two hundred (200) foot, buffer;
  - (2) The buffer for a highly erodible soil on a slope less than fifteen (15) percent or a hydric soil occupies at least seventy-five (75) percent of the lot or parcel; and
  - (3) Mitigation occurs at a 2:1 ratio based on lot coverage of the proposed development activity that is in the buffer.
- i. Existing sand and gravel operations should establish a Buffer to the greatest extent possible.

#### **4. Buffer Establishment**

- a. Applicability
- (1) The requirements of this regulation are applicable to:
    - (A) A development or redevelopment activity that occurs on a lot or parcel that includes a buffer to tidal waters, a tidal wetland, or a tributary stream if that development or redevelopment activity is located outside the buffer; or
    - (B) The approval of a new subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.
  - (2) The requirements of this regulation are not applicable to:
    - (A) An in-kind replacement of a principal structure; or
    - (B) Land that remains in agricultural use after subdivision in accordance with a buffer management plan under Section 196.6.

- b. The Buffer shall be established by the applicant in vegetation in accordance with Section 196.4.c and to provide a buffer management plan under Section 196.6 when the applicant applies for:
  - (1) Approval of a new subdivision or lot;
  - (2) Conversion from one land use to another land use on a lot or parcel; or
  - (3) Development on a lot or parcel created before January 1, 2010.
- c. At the time of application, if the Buffer is not fully forested or is not fully established in woody or wetland vegetation, the applicant shall establish the buffer to the extent required in Table 2, Appendix E.
- d. For a buffer management plan required under Section 196.6.j that is related to the establishment of more than one (1) acre, a local jurisdiction may approve natural regeneration up to fifty (50) percent of the area required for establishment if:
  - (1) The plan does not include any new managed lawn or turf;
  - (2) All of the natural regeneration area is within fifty (50) feet of a mature forest that contains a seed bank of native species adequate for natural regeneration;
  - (3) The plan includes a supplemental planting plan for subsequent implementation if the natural regeneration does not succeed; and
  - (4) The financial assurance provided for implementing the buffer management plan;
    - (A) Is sufficient to cover the cost of planting an equivalent area; and
    - (B) Specifies that release of the financial assurance may not occur until the later of five (5) years after the date of plan approval or the areal coverage of the buffer is at least three hundred (300) native woody stems, on a per-acre basis, that are at least four (4) feet in height.
- e. At the end of five (5) years after the date of approval of a natural regeneration plan, the applicant shall implement a supplemental planting plan for at least two (2) years if the areal coverage of the Buffer is not, on a per-acre basis, at least three hundred (300) woody stems of at least four (4) feet in height.

**5. Mitigation and Planting Standards.**

- a. Applicability. The requirements of this regulation are applicable to a development or redevelopment activity that occurs on a lot or parcel that includes a buffer to tidal waters, a tidal wetland, or a tributary stream when that development or redevelopment activity is located inside the Buffer.

- b. As applicable to a site, a buffer management plan shall be required in accordance with Section 196.6 to satisfy the planting and mitigation standards of this Section and to satisfy the buffer establishment standards required under Section 196.4 so as to:
  - (1) Prohibit the installation or cultivation of new lawn or turf on-site in the buffer;
  - (2) Ensure the planting of native species in compliance with the amounts specified under Sections 196.5.c, 196.5.g, and 196.5.h;
  - (3) Ensure coverage of the Buffer with mulch or ground cover or both until buffer plantings are established;
  - (4) Ensure planting is evenly distributed throughout the entire Buffer; and
  - (5) Provide optimum habitat and water quality benefits.
- c. As applicable to a site, the cumulative amount of buffer mitigation shall be calculated, as required in accordance with the following standards:
  - (1) For a development activity within the Buffer, mitigation shall be based on the limits of disturbance and calculated in accordance with the ratios under Section 196.5.g and Table 1 in Appendix E.
  - (2) Except for the mitigation required under Section 196.5.c(3), for the removal of an individual tree with a diameter of at least two (2) inches when measured at four and one-half (4½) feet above the ground surface, mitigation shall be at a rate of one hundred (100) square feet for every one (1) inch of diameter; and
  - (3) For removal of a dead, diseased, or dying tree, mitigation shall be at least one (1) 1-inch caliper tree for each tree removed.
- d. If mitigation planting cannot be located on-site within the buffer because of site constraints, then planting shall be required in the following order of priority;
  - (1) On-site and adjacent to the Buffer; and
  - (2) On-site elsewhere in the Critical Area.
- e. **Reserved**
- f. In accordance with the applicable activity, mitigation shall be required per the ratios established in Table 1, Appendix E.
- g. In accordance with the applicable activity, the applicant may combine the planting and mitigation standards found in Table 4, Table 5, and Table 6 of Appendix E, as follows:

(1) Where establishment, rather than mitigation, is required:

- (A) When less than  $\frac{1}{4}$  acre is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for the entire area; or
- (B) When  $\frac{1}{4}$  to less than or equal to one (1) acre is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for at least fifty (50) percent of the area, and the remainder shall be required to conform to Table 6 in Appendix E; or
- (C) When greater than one (1) acre to less than or equal to five (5) acres is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for at least twenty-five (25) percent of the area, and the remainder shall be required to conform to Table 6 in Appendix E; or
- (D) When greater than five (5) acres is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for at least ten (10) percent of the area, and the remainder shall be required to conform to Table 6 in Appendix E.

(2) Where mitigation, rather than establishment, is required:

- (A) When less than one (1) acre is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for the entire area;
  - (B) When one (1) acre or greater is required, then landscaping stock, per Table 4 and Table 5 of Appendix E, is required for at least fifty (50) percent of the area, and the remainder shall be required to conform to Table 6 in Appendix E.
- h. Planting credits for the type and size of vegetation proposed shall be those stated in Table 4 and Table 5 of Appendix E, except that the Planting Cluster 1 and Planting 2 Vegetation Type option in Table 4, Appendix E, and the Herbaceous Perennial Vegetation Type option in Table 5, Appendix E, shall apply to buffer establishment and buffer mitigation of less than one (1) acre only.
  - i. All landscaping stock planted in accordance with Section 196.5.h shall be one hundred (100) percent guaranteed for at least two (2) years after planting is completed.
  - j. Flexible stocking size, when authorized under Section 196.5.g, shall be consistent with the requirements cited in Table 6, Appendix E.
  - k. The following are expressly prohibited:
    - (1) Variances to the planting and mitigation standards set forth in Section 196; or

- (2) Final Use and Occupancy Permits for an application under Section 196.6.b(2), unless the applicant:
  - (A) Completes the planting required under an approved buffer management plan; or
  - (B) Pending completion of the planting required under an approved buffer management plan during the next planting season, provides financial assurance to cover the costs for:
    - (i) Materials and installation; and
    - (ii) In the case of a mitigation or establishment requirement that is at least five thousand (5,000) square feet, long-term survivability in accordance with the requirements of Section 196.6.j(2)(D).
- l. Before recordation of a final subdivision, an applicant shall:
  - (1) Post permanent signs delineating the upland boundary of the Buffer at a ratio of at least one (1) sign per lots or per two hundred (200) linear feet of shoreline, whichever is applicable; and
  - (2) Design each sign required under Section 196.5.l(1) so that it:
    - (A) Is at least eleven (11) inches in width and fifteen (15) inches in height;
    - (B) Is placed at a height of four and one-half (4½) feet, but not attached to a tree; and
    - (C) Clearly states “Critical Area Buffer – No clearing or disturbance permitted”.
- m. Prior to the recordation of a Final Plat, an applicant shall record a protective measure in a buffer management plan in accordance with Section 196.6.
- n. Prior to the approval of a Final Plat, an applicant shall be responsible for obtaining approval of the buffer management plan. [Note: See Section 4.2.13 of the Cecil County Subdivision Regulations.]

**6. Buffer Management Plans.**

- a. The provision of Section 196.6 do not apply to maintenance of an existing grass lawn or an existing garden in the Buffer.
- b. An applicant proposing a development activity shall submit a buffer management plan if:

- (1) The establishment of the Buffer is required in accordance with Section 196.3; or
  - (2) Disturbance to the Buffer will result from the issuance of a:
    - (A) Variance;
    - (B) Subdivision approval;
    - (C) Site Plan approval;
    - (D) Shore erosion control permit as required under COMAR 26.24.01;
    - (E) Building permit;
    - (F) Grading permit; or
    - (G) Special Exception.
- c. In accordance with the requirements under Sections 196.1-3, the applicant shall submit a:
- (1) Simplified buffer management plan; or
  - (2) Minor buffer management plan; or
  - (3) Major buffer management plan.
- d. A buffer management plan shall not be approved unless:
- (1) The plan clearly indicates that all planting standards under Section 196.5 will be met; and
  - (2) Appropriate measures are in place for the long-term protection and maintenance of all buffer areas established under Section 196.
- e. A permit for a development activity under Sections 196.1-3 shall not be issued unless the buffer management plan submitted under Section 196.6.c has first been approved.
- f. If an applicant fails to implement a buffer management plan, then that failure shall constitute a violation of the Cecil County Critical Area Program.
- g. No permit(s) shall be issued for a property that is the subject of a violation under Section 196.6.f.
- h. Simplified Buffer Management Plan.
- (1) Before the performance of an activity under this Section in the Buffer, the applicant shall submit a simplified buffer management plan as part of the application associated with any of the following activities:
    - (A) Providing access to a private pier or shoreline that is up to three (3) feet wide;

- (B) Manually removing invasive or noxious vegetation;
  - (C) Filling to maintain an existing grass lawn; or
  - (D) Except for an emergency situation under Section 196.6.h(2), cutting a tree that is in imminent danger of falling and causing damage to a dwelling or other structure, causing blockage to a stream, or accelerating shore erosion.
- (2) If cutting a tree in the buffer is immediately necessary because of an emergency situation, the applicant shall submit a simplified buffer management plan to the local jurisdiction at the earliest possible time after the tree has been cut.
- (3) A simplified buffer management plan shall include:
- (A) A brief narrative describing the proposed activity, including the anticipated start date and method to be used;
  - (B) The proposed mitigation;
  - (C) In the case of the removal of invasive or noxious species, the revegetation of the area in accordance with Section 196.5.b(1) and (3);
  - (D) The proposed planting date; and
  - (E) The signature of the party responsible for the proposed activity and for ensuring the survival of the planting.

i. Minor Buffer Management Plan

- (1) The applicant shall submit a minor buffer management plan for:
- (A) Establishment of less than five thousand (5,000) square feet of the buffer for an application listed under Section 196.4; or
  - (B) A requested disturbance that requires less than five thousand (5,000) square feet of mitigation for an application listed under Section 196.5.
- (2) A minor buffer management plan shall include:
- (A) A plan that shows the proposed limit of disturbance, the total number and size of trees to be removed, if applicable, and the arrangement of the planting to be done;
  - (B) A landscape schedule that shows the proposed species type, the quantity of plants, the size of plants to be installed, and the planting date;



- (C) A maintenance plan for the control of invasive species, pests, and predation that shows invasive species and pest control practices, the provision of at least 2 years of monitoring, and a reinforcement planting provision if survival rates fall below the standards in Section 196.5j and k;
- (D) An inspection agreement that grants permission to the local jurisdiction to inspect the plantings at appropriate times;
- (E) If buffer establishment is required under Section 196.4, then the information on which calculation of the amount of buffer to be planted was based;
- (F) If buffer mitigation is required under Section 196.5, then the information on which calculation of the amount of buffer to be planted was based; and
- (G) The signature of the party responsible for the proposed activity and for ensuring the survival of the planting.

j. Major Buffer Management Plan.

- (1) The applicant shall submit a major buffer management plan for:
  - (A) Establishment of at least five thousand (5,000) square feet of the buffer for an application listed under Section 196.4; or
  - (B) A requested disturbance that requires at least five thousand (5,000) square feet of mitigation for an application listed under Section 196.5.
- (2) A major buffer management plan shall include:
  - (A) A plan that shows the proposed limit of disturbance, the total number and size of trees to be removed, if applicable, and the arrangement of the planting to be done;
  - (B) A landscape schedule that shows the proposed species type, the quantity of plants, the size of plants to be installed, and the planting date;
  - (C) A maintenance plan for the control of invasive species, pests, and predation that shows invasive species and pest control practices, the provision of at least 2 years of monitoring, and a reinforcement planting provision if survival rates fall below the standards in Sections 196.5j and k;
  - (D) A long-term protection plan that includes evidence of financial assurance that adequately covers the planting and survivability requirement, a provision for at least

two (2) years of monitoring as required in Sections 196.5j and k, and if planting, an anticipated planting date before construction or sale of the lot;

- (E) An inspection agreement that grants permission to the local jurisdiction to inspect the plantings at appropriate times;
- (F) If buffer establishment is required under Section 196.4, then the information on which calculation of the amount of buffer to be planted was based;
- (G) If buffer mitigation is required under Section 196.5, then the information on which calculation of the amount of buffer to be planted was based; and
- (H) The signature of the party responsible for the proposed activity and for ensuring the survival of the planting.

(3) For a major buffer management plan:

- (A) A single species may not exceed twenty (20) percent of the total planting requirement; and
- (B) Shrubs may not exceed fifty (50) percent of the total planting requirement.

## **7. Fee In Lieu of Buffer Mitigation**

- a. The applicant shall be required to pay a fee, to be collected by the County, in lieu of buffer mitigation if the planting requirements under Section 196.5 cannot be met.
- b. The applicant shall:
  - (1) Calculate the square footage of mitigation due in accordance with Section 196.5; and
  - (2) Except as provided under Section 196.5.c, make payment of at least \$1.50 per square foot of mitigation required.
- c. The County shall:
  - (1) Deposit such monies collected into a special, dedicated Fee In Lieu of Buffer Mitigation Fund; and
  - (2) Use money from the Fee In Lieu of Buffer Mitigation Fund exclusively:
    - (A) To establish the buffer on sites where planting is not a condition of development or redevelopment; or

- (B) For water quality and habitat enhancement projects, as described in the Cecil County Critical Area Program or approved by the Critical Area Commission in an agreement between the Critical Area Commission and the County.
- d. The County may agree to utilize a lesser fee in lieu of buffer mitigation that is based on an alternative amount to that required under Section 196.7.b if:
  - (1) The applicant can demonstrate to the satisfaction of the County that the proposed alternative will ensure the receipt of funds sufficient to administer a financially sound fee in lieu of buffer mitigation program, based on the following costs:
    - (A) Planting materials;
    - (B) Labor;
    - (C) Land acquisition, either by fee simple or by easement;
    - (D) Planting maintenance; and
    - (E) Monitoring and administration of the special account; and
  - (2) The Critical Area Commission approves the lesser alternative proposed.
- e. All payments to and disbursements from the County's Fee In Lieu of Buffer Mitigation Fund during each calendar year shall be reported by the County to the Critical Area Commission no later than April 1 of the following year. Yearly reports shall include:
  - (1) The number of projects for which a fee was collected and the amount of fee per project;
  - (2) The total square footage of buffer impact that generated the fee(s);
  - (3) A short description of each planting project, including the amount spent on each project;
  - (4) The square footage area of buffer replanted;
  - (5) The account balance as of December 31; and
  - (6) If funds are purposely being held in the County's Fee In Lieu of Buffer Mitigation Fund account in order to achieve a long-term purpose that is consistent with the County's Critical Area Program's policies and goals, the nature of that purpose and the projected time and funding that will be necessary to accomplish that purpose.

## **8. Agricultural Activities.**

- a. The Buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices as required in COMAR 27.01.06.
- b. Agricultural activities are permitted in the buffer, if, as a minimum best management practice, a twenty-five (25) foot vegetated filter strip measured landward from the mean high water line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:
  - (1) The filter strip shall be composed of either trees with a dense ground cover, or a thick sod of grass, and shall be so managed as to provide water quality benefits and habitat protection consistent with the policies stated Section 196.2; noxious weeds, including Johnson grass, Canada thistle, and multiflora rose, which occur in the filter strip, may be controlled by authorized means;
  - (2) The filter strip shall be expanded by a distance of four (4) feet for every one (1) percent of slope, for slopes greater than six (6) percent;
  - (3) The twenty-five (25) percent vegetated filter strip shall be maintained until such time as the landowner is implementing, under an approved soil conservation and water quality plan, a program of best management practices for the specific purposes of improving water quality and protecting plant and wildlife habitat; and provided that the portion of the soil conservation and water quality plan being implemented achieves the water quality and habitat protection objectives of the twenty-five (25) percent vegetated filter strip;
  - (4) The best management practices shall include a requirement for the implementation of a grassland and manure management program, where appropriate, and that the feeding or watering of livestock may not be permitted within fifty (50) feet of the mean high water line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;
  - (5) Clearing of existing natural vegetation in the Buffer is not allowed; and
  - (6) Farming activities, including the grazing of livestock, do not disturb stream banks, tidal shorelines, or other habitat protection areas as described in this Section.

## **9. Tree Clearing and Timber Harvesting.**

- a. The Buffer shall be managed to achieve or enhance the function stated in Section 196.1. Cutting or clearing of trees within the Buffer shall be prohibited except that commercial harvesting of trees by selection or by the clearcutting of loblolly pine and tulip poplar may be permitted to within fifty (50) feet of the landward edge of the mean high water line of tidal waters and perennial tributary streams, or the edge of tidal wetlands if:

- (1) This cutting does not occur in the habitat protection areas described in COMAR 27.01.09.02, .03, .04, and .05; and
  - (2) The cutting is conducted pursuant to the requirements of COMAR 27.01.05 and in conformance with a buffer management plan prepared by a registered, professional forester and approved by the Forestry Programs and the Fish, Heritage and Wildlife Administration of the Maryland Department of Natural Resources.
- b. The plan shall be required for all commercial harvesting within the buffer, regardless of the size of the area to be cut, and shall contain the following minimum requirements:
- (1) Disturbance to stream banks and shorelines shall be avoided;
  - (2) The area disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the buffer; and
  - (3) The cutting does not involve the creation of logging roads and skid trails within the Buffer.

#### **10. Buffer Exemption Areas.**

The County may request an exemption of certain portions of the Critical Area from the buffer requirements where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area prevents the buffer from fulfilling the functions stated in Section 196.1. If an exemption is requested of the Critical Area Commission, then the County shall propose other measures for achieving the water quality and habitat protection objectives of the policies. These measures may include, but are not limited to, public education and urban forestry programs.

#### **Section 197. General Regulations for Development and Land Use within the Critical Area District**

- 1.** Except as provided below, uses, accessory uses, and special exception uses shall be those uses permitted within the applicable underlying base zoning district as shown on the Official Zoning Maps.
- 2.** In business zones within Resource Conservation Areas (RCAs), expansions of existing special exception facilities are permitted.
- 3.** No building or other structure shall exceed thirty-five (35) feet in height, except for flag poles, chimneys or agriculture structures and buildings.

4. Storage of fertilizers, chemicals, pesticides, or polluting materials or substances shall be contained to the extent that any erosion of or runoff from such materials or substances is prevented.
5. No natural vegetation shall be removed nor shall the slope of the land surface be altered in the Buffer, including clearing of existing natural vegetation to create new agricultural lands, except as provided below. In addition, limited cutting or clearing of trees and understory is permitted under an approved Buffer Management Plan for the following purposes:
  - a. To provide access to water-dependent uses otherwise permitted;
  - b. To install or construct a shore erosion protection device or measure otherwise permitted;
  - c. For personal use if there is no impairment of water quality and habitat value and cut trees are replaced and provided that it qualifies as a minor impact;
  - d. To remove trees that may result in stream blockage, streambank erosion or damage to structures;
  - e. To prevent the spread of disease afflicting vegetation and the threat of forest fire with the advice and guidance of the Departments of Agriculture and Natural Resources and spread of noxious weeds and plants; or
  - f. To accommodate modifications or redevelopment of existing structures in the Buffer Modification Areas.
  - g. For agricultural activity provided that a twenty-five (25) foot buffer and Best Management Practices are in place on that portion of the farm that is within the Critical Area District.
  - h. Other uses as recommended by the Cecil County Critical Area Program.
6. The following uses are prohibited due to their adverse impact on habitats and water quality, unless it has been demonstrated that the activity will create a net improvement in water quality to the adjacent body of water.
  - a. Non-maritime heavy industry; and
  - b. Transportation facilities.
7. The following uses are prohibited:

- a. Solid or hazardous waste collection or disposal facilities, excluding dumpsters and trash receptacles;
  - b. Sanitary landfills;
  - c. Sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities;
  - d. New commercial or related maritime facilities in the Buffer within Resource Conservation Areas (RCAs);
  - e. New industrial and maritime industrial uses in the Buffer in Limited Development Areas (LDAs) and Resource Conservation Areas (RCA's); and
  - f. The application of sludge in the Buffer.
8. Commercial timber harvesting activities or other cutting or clearing of forested land are permitted in the Critical Area provided such activities are conducted in accordance with all standards established in the Cecil County Critical Area Program and an approved Timber Harvesting Plan.
9. Agriculture is permitted in the Critical Area provided all agricultural activities and land management practices are conducted in accordance with the standards established in the Cecil County Critical Area Program.
10. All development, alteration, or use of any land for residential, commercial, industrial, or institutional purposes, or agricultural, fishery or forestry activities in the Critical Area shall only be done in compliance with the Habitat Protection Provisions of the Cecil County Critical Area Program. Cecil County Habitat Protection Areas include the following four habitats: the 110-foot Buffer (200-foot RCA Buffer), Threatened and Endangered Species and Species in Need of Conservation, Plant and Wildlife Habitat Protection Areas including Nontidal Wetlands, and Anadromous Fish Propagation Waters. The 110-foot Buffer (200-foot RCA Buffer) is regulated as per Sections 195 and 196 of this Ordinance. The remaining Habitat Protection Areas are regulated as per the following sections.
- a. When required per the standards outlined in this Ordinance, a Habitat Protection Plan shall be provided and approved by the Planning Commission or the Department of Land Use and Development Services prior to final approval of the project. The Habitat Protection Plan shall protect and conserve the particular identified habitat or species on the project site and include any necessary mitigation measures. The applicant shall

provide a proposed schedule for mitigation, planting plan, and bond if deemed necessary by the Department of Land Use and Development Services. The County shall seek additional information and comments from the Department of Natural Resources and other appropriate agencies and adjacent jurisdictions, to ensure that the Plan is adequate to provide for long-term conservation and can be implemented on the specific site. A copy of the Habitat Protection Plan shall be forwarded to the Critical Area Commission for review and comment per COMAR 27.03.01

11. Areas of threatened and endangered species and areas with species in need of conservation are those areas where these species, as designated by the Secretary of the Department of Natural Resources, are found or have historically been found and their surrounding habitats. The County shall provide protection for threatened and endangered species, those species in need of conservation and their habitats, which occur in the Critical Area.
  - a. Standards. The County, through these regulations and measures, shall provide for the protection of the known habitats of species in need of conservation, threatened and endangered species, and also habitats of these species that may be identified in the future. If a subdivision or development activity is proposed for a site within the Critical Area, then the County shall review the proposed activities on a case-by-case basis and seek technical advice from the Department of Natural Resources and other appropriate agencies. Based on the recommendations of each agency, additional research and site analysis may be required to identify the location(s) of threatened and endangered species on a site. If any habitats are identified on a project site, a portion thereof, or adjacent to a project site, then the applicant shall be responsible for developing a Habitat Protection Plan as described above that protects and conserves the species and habitats identified.
  - b. Bald Eagle Protection Standards. The County standards for bald eagle protection shall be consistent with those of the Department of Natural Resources. A three zone protection area of  $\frac{1}{4}$  mile (1,320 feet) in radius around each Bald Eagle nest shall be established, and within the zones there shall be compliance with the following protection measures:
    - (1) Zone 1 shall include the area extending from the nest out to a radius of 330 feet from the nest. In this zone timber cutting, land clearing, and development activities are prohibited. Hiking, fishing, and agricultural activities may be permitted from June 16 to December 14. These activities and human activity in general should not be permitted in this zone from December 15 to June 15.
    - (2) Zone 2 extends from the outer limit of Zone 1 to a radius of 660 feet from the nest. In this zone, major habitat changes should be avoided



including clear-cutting, land clearing, and development activity. Hunting, hiking, fishing, and agricultural activities may be permitted from June 16 to December 14. These activities and human activity in general should not be permitted in this zone from December 15 to June 15. Agricultural activities may be permitted if Department of Natural Resources data indicate that the nesting eagles are tolerant of these activities. From August 16 to November 14, selective thinning and maintenance of timber stands and building and road maintenance may be permitted.

(3) Zone 3 extends from the outer limit of Zone 2 to a radius of 1,320 feet from the nest. Timber cutting, land clearing, and development activities shall be restricted from December 15 to June 15. Other activities in this zone that are within sight of the eagles on the nest may need to be restricted during this time period in accordance with Department of Natural Resources recommendations.

(4) If a Bald Eagle nest has not been used for three successive nesting seasons, then any protective regulations applied to the specific site may be removed after verification by the Department of Natural Resources that the nest has been abandoned.

c. **Implementation.** The owner of any property containing a portion of, or adjacent to, a habitat of a threatened or endangered species or a species in need of conservation, on which a land altering or land development activity, is proposed shall prepare a Habitat Protection Plan, as described above. A land altering activity shall include, but not be limited to, such activities as subdivision, timbering, sand and gravel mining, clearing new farmlands, the construction of homes or commercial structures.

12. "Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics. "Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals in the Critical Area.

a. The following plant and wildlife habitats shall be identified in the Critical Area.

- (1) Colonial water bird nesting sites;
- (2) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and non-tidal wetlands;
- (3) Existing riparian forests (example: relatively mature forested areas within the Critical Area of 50 acres or more, or forest connected with such areas);

- (4) Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (example: relatively mature forested areas within the Critical Area of 50 acres or more, or forest connected with such areas);
- (5) Other areas which may, in the future, be identified by the State and Federal agencies as important plant and wildlife habitat areas;
- (6) Other plant and wildlife habitats determined to be of local significance;
- (7) Natural Heritage Areas which have been designated; and
- (8) Non-tidal wetlands.

b. **Standards.** The County's Critical Area Program and ordinance will serve to accomplish the goals of the Critical Area Program to protect water quality and wildlife habitat. In addition to the standards set forth in this ordinance for the protection of the Buffer, the following standards shall apply to new development and redevelopment within the Critical Area.

- (1) Any development or significant land use change of property located within the Critical Area of the County will require a site specific survey to determine the presence of any plant and wildlife habitat areas. The survey shall be submitted along with design plans, a written description of the measures the property owner proposes to take to protect the habitats identified, and the required Habitat Protection Plan that addresses the standards below. This information concerning habitats will be incorporated onto Resource Inventory Maps for future reference.
- (2) The County may seek additional information and comments from the Department of Natural Resources and other appropriate agencies and adjacent jurisdictions.
- (3) When proposing development activities within riparian forests or forest areas utilized as breeding areas by forest interior dwelling birds, applicants will utilize the guidance found in the Critical Area Commission publication entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended. In addition, the Department of Natural Resources may make specific recommendations based on an evaluation of the site and the proposed development. Riparian habitat protection shall be achieved through adherence to valid habitat protection policies as follows.
  - (A) Vegetation shall be maintained in its natural condition along all streams to provide wildlife corridors.

- (B) A minimum 110 foot Buffer shall extend landward from the mean high water line of tidal water, and the edge of tributary streams and tidal wetlands. This area is to be conserved for wildlife protection.
  - (C) Non-tidal wetland forests shall be left in a natural state for wildlife and water quality protection.
  - (D) Forest areas utilized as breeding areas by forest interior dwelling birds and other species shall be conserved.
  - (E) Existing riparian forest, e.g, those relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands, or Bay shoreline and/or which are documented breeding areas, shall be conserved.
- (4) If a forest is to be developed or to be harvested, a site-specific field investigation shall be conducted to determine if important sensitive species are present and to make sure that appropriate protection measures are incorporated into the development plan or Timber Harvest Plan. (When proposing development activities within riparian forests or forest areas utilized as breeding areas by forest interior dwelling birds, applicants will utilize the guidance found in the Critical Area Commission publication entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended.) In addition, the Department of Natural Resources may make specific recommendations based on an evaluation of the site and the proposed development. In general, the following recommended measures shall be followed.
- (A) Minimize forest and woodlands disturbance from off-road vehicles, public use or logging from May through August of each year;
  - (B) Focus all development on the periphery of the forest or woodlands;
  - (C) Retain the forest canopy as well as shrub understory;
  - (D) Retain snag and mature seed trees as dens for woodpeckers and as nests for bald eagles;
  - (E) Discourage the creation of small clearings and expansion of forest bridge habitats;
  - (F) Encourage the re-establishment of native forests and woodlands; and
  - (G) Adopt harvest techniques to maintain or improve habitat.
- (5) The County requires the conservation of rough areas, e.g., depressions, swales, non-tidal wetlands or other areas unsuitable for development or agriculture, as wildlife cover. Using cluster development, the developer shall

leave these areas in natural vegetation or where this is not feasible, replant with native vegetation.

- (6) For development activities in RCA and LDA, wildlife corridors shall be established and used to connect areas left in forest cover with any large forest tracts which are located outside of the area of the property being developed or subdivided. The area left in forest cover (at least 70 percent of the tract in LDAs or RCAs as required by this Ordinance) shall be adjacent to larger forest, not left as an isolated island of trees. Planting required as a mitigation measure shall also be adjacent to other habitat.
- (7) Buffer areas for colonial winter bird (heron, egret, tern, and glossy ibis) nesting sites shall be established (if such birds are found to exist in the Critical Area) so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season.
- (8) New water-dependent facilities shall be located to prevent disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl.
- (9) Protection measures, including a buffer area, shall be established where appropriate, for other plant and wildlife habitat sites identified in this Ordinance.
- (10) Forested areas required to support wildlife species identified as threatened and endangered, or in need of conservation, shall be protected and conserved by developing management programs which have as their objective, conserving the wildlife that inhabit or use the areas. Development activities, or the clearing or cutting of trees which might occur in the areas, shall be conducted so as to conserve riparian habitat, forest interior wildlife species and their habitat. Management measures may include incorporating appropriate wildlife protection elements into Timber Harvest Plans, Forest Management Plans, cluster development or other site design criteria which provide for the conservation of wildlife habitat. Measures may also include Soil Conservation Plans, which have wildlife habitat protection provisions appropriate to the areas defined above, and incentive programs which use the acquisition of easements and other, similar techniques.
- (11) When development activities, or the cutting or clearing of trees, occurs in forested areas, to the extent practical, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.

- (12) Those plant and wildlife habitats considered to be of local significance by the County shall be protected. Examples of these are those whose habitat values may not be of statewide significance, but are of importance locally or regionally because they contain species uncommon or of limited occurrence in the County, or because the species are found in unusually high concentrations.
- (13) Natural Heritage Areas shall be protected from alteration due to development activities or cutting or clearing so that structure and species composition of the areas are maintained.
- (A) The following area within the Critical Area of the County is officially identified as a Natural Heritage Area.
- The Plum Creek Natural Heritage Area.
- (B) Development activities or cutting and clearing in Natural Heritage Areas shall be prohibited unless an analysis is performed and measures proposed to mitigate any adverse impacts of the proposed activities. The analysis and mitigation measures shall be prepared by qualified professionals (e.g., ornithologists, zoologists, environmental engineers, and planners) at the expense of the applicant and shall address the expected effects on the natural environment with within the Natural Heritage Area.
- (C) The analysis shall be submitted to the Department of Land Use and Development Services for review and comment by the Technical Advisory Committee (including the Critical Area staff) in conjunction with the preparation of the Preliminary Plat, if a major subdivision. (If the proposed development activities are part of a site plan or minor subdivision, then those applications are not reviewed by the Technical Advisory Committee or the Planning Commission.) Upon receiving said comment and, if appropriate, upon seeking the advice of expert consultants, the Planning Commission or the Department of Land Use and Development Services shall find against or in favor of the activities or may make suggestions for changing the analysis and ask the applicant to resubmit the analysis. The initial review between the County and the Critical Area Commission should be completed within sixty (60) days from submission.

c. In addition to the standards set forth in this ordinance for protection of the Buffer

and expansion of the Buffer for hydric soils, the following shall apply to new development and re-development in the Critical Area.

- (1) Maintain at least a 25 foot buffer around identified non-tidal wetlands where development activities or other activities may disturb the wetlands or the wildlife contained therein. Disturbance shall be prohibited unless it can be shown that these activities will not adversely affect the wetland. This requirement is not intended to restrict the grazing of livestock in these wetlands.
- (2) Protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities or other land disturbances in the drainage area of the wetlands shall minimize alteration to the surface or subsurface flow of water into and from the wetlands and not cause impairment of the water quality or the plant and wildlife and habitat value of the wetland.
- (3) If an applicant demonstrates that activities or operations that impact non-tidal wetlands are water-dependent or of substantial economic benefit, but will cause unavoidable and necessary impacts to the wetlands, a Mitigation Plan is required. The Plan shall specify mitigation measures that will provide water quality benefits and plant and wildlife habitat equivalent to those of the wetland destroyed or altered and shall be accomplished, to the extent possible, on site or near the affected wetland. In evaluating a proposal involving wetland impacts, the County shall consider the following.
  - (A) Avoiding the impact by not taking a certain action or parts of an action;
  - (B) Minimizing impacts by limiting the degree of magnitude of action and its implementation;
  - (C) Remediating the impact by repairing, rehabilitating, or restoring the affected environments;
  - (D) Reducing or eliminating the impact over time by preservation and maintenance operation during the life of the action; and
  - (E) Compensating or eliminating the impact over time by replacing or providing substitute resources or environments.
- (4) For all activities or operations that impact non-tidal wetlands or the

non-tidal wetland buffer, the applicant shall seek comments on Mitigation Plans from the Department of Natural Resources, and, where appropriate, State departments including the Departments of the Environment and Agriculture, the local Soil Conservation District and the U. S. Fish and Wildlife Service. Upon finding that the plan as proposed, or as may be modified to address the comments of these agencies, provides mitigation sufficient to accomplish the objectives of this section, then the proposer shall implement the plan.

13. Anadromous Fish Propagation Water Development Standards. Anadromous fish propagation waters are those streams that are tributary to the Chesapeake Bay where spawning of anadromous species (e.g., rockfish or striped bass, yellow perch, white perch, shad and river herring) occurs or has occurred.

a. The policies of the County with regard to anadromous fish propagation waters shall be to:

- (1) Protect the instream and streambank habitat of anadromous fish propagation waters;
- (2) Promote land use policies and practices in the watershed of spawning streams within the Critical Area which will minimize the adverse impacts of development on the water quality of the streams; and
- (3) Provide for the unobstructed movement of spawning and larval forms of anadromous fish in streams.

b. With anadromous fish propagation watersheds, the following measures are required.

- (1) Establishment of a Habitat Protection Plan.
- (2) The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams shall be prohibited unless it can be demonstrated that water quality and fisheries habitat can be improved.
- (3) Channelization or other physical alterations which may change the course or circulation of a stream and thereby interfere with the movement of fish, shall be prohibited.
- (4) The County shall require development activity that occurs within a watershed draining to anadromous fish propagation waters to fulfill the following objectives.

- (A) Minimize development activities or land disturbances within the watershed;
  - (B) Maintain, or if practicable, improve water quality in affected streams or other water bodies;
  - (C) Minimize to the extent possible the discharge of sediments into affected streams or other water bodies; and
  - (D) Maintain, or if practicable, increase the natural or native vegetation of the watershed and tree canopy over the streams.
- (5) The County shall ensure coordination and compliance with complementary State laws and regulations, as follows.
- (A) Prohibit the construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams or other designated water bodies. If practical, existing structures shall be removed; and
  - (B) Ensure that the construction, repair or maintenance activities associated with bridges, or other stream crossings or with utilities and roads, which involve disturbance within the buffer or which occur instream, as described in COMAR 08.05.0311B(5), shall be prohibited between March 15 and June 15 of each year.

**Section 198. Water-Dependent Facility Requirements**

1. The provisions of this chapter apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation.
2. Water dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.
3. The policies of the County with regard to water-dependent facilities shall be to limit development activities in the Buffer to those that are water-dependent and provide by



design and location criteria that these activities will have minimal individual and cumulative impacts on water quality and fish, wildlife, and plant habitat in the Critical Area.

- 4.** The following standards shall apply to new or expanded development activities associated with water-dependent facilities:
  - a.** Proposed new or expanded water-dependent facilities may be permitted in the Buffer in IDA and LDA provided they demonstrate the following:
    - (1) They are water-dependent;
    - (2) They meet a recognized private right or public need;
    - (3) That the adverse impacts on water quality and fish, plant and wildlife habitat are minimized;
    - (4) That, insofar as possible, non-water dependent uses or activities are located outside of the Buffer; and
    - (5) That they meet the requirements of the Cecil County Critical Area Program as set forth below.
  - b.** Except as otherwise provided in this program, new or expanded development activities may not be permitted in those portions of the Buffer, which occur in Resource Conservation Areas.
- 5.** Applicants for new or expanded water-dependent facilities in Intensely Developed Areas or Limited Development Areas shall set out in the application how the above requirements are met. Applicants for water-dependent facilities in a Resource Conservation Area, other than those specifically permitted herein, must apply for a portion of the County's growth allocation as set forth in this ordinance.
- 6.** The County shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The County shall work with appropriate State and federal agencies to ensure compliance with applicable regulations. The following factors shall be considered when evaluating proposals for new or expanded water dependent facilities:
  - (A) That the activities will not significantly alter existing water circulation patterns or salinity regimes;

- (B) That the water body upon which these activities are proposed has adequate flushing characteristics in the area;
  - (C) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
  - (D) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;
  - (E) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
  - (F) That dredging shall be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the critical area, generally;
  - (G) That dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:
    - (1) Backfill for permitted shore erosion protection measures;
    - (2) Use in approved vegetated shore erosion projects;
    - (3) Placement on previously approved channel maintenance spoil disposal areas; and
    - (4) Beach nourishment.
  - (H) That interference with the natural transport of sand will be minimized; and
  - (I) That disturbance will be avoided to historic areas of waterfowl staging and concentration or other Habitat Protection Areas identified in the Habitat Protection Area Chapters of this ordinance.
- 7.** The information necessary for evaluating the above factors, if not available locally, shall be obtained from appropriate State and Federal agencies.
- 8.** New, expanded, or redeveloped marinas may be permitted in the Buffer within Intensely Developed Areas and Limited Development Areas subject to the requirements set forth in

this Chapter. New marinas or related maritime facilities may not be permitted in the Buffer within Resource Conservation Areas except as provided in this Chapter. Expansion of existing marinas may be permitted by the County within Resource Conservation Areas provided that it is sufficiently demonstrated that the expansion will not adversely affect water quality, and that it will result in an overall net improvement in water quality at or leaving the site of the marina. New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

**9.** Buildings, structures, and parking areas are prohibited within the Buffer except the following:

**a.** Community piers, individual private piers, docks, launching ramps, and mooring facilities.

**(1)** For community piers, only the following uses may be located in the Buffer:

- (a)** mooring buoys and slips
- (b)** docks, piers, launching ramps, access roads, and paths
- (c)** loading/unloading areas

**(2)** Where community piers are permitted, the number of slips or mooring buoys shall be the lesser of (a) or (b) below:

- (a)** One slip for each fifty (50) feet of shoreline in the subdivision in Intensely Developed Area (IDAs) and Limited Development Areas (LDAs) and one slip per each 300 feet of shoreline in the subdivision in the Resource Conservation Areas (RCAs); or
- (b)** A ratio of slips or piers to platted lots or dwellings within the subdivision in the Critical Area District according to the following:

Platted Lots or Dwellings in the Critical Area	Slips Non-Commercial
up to 15	1 for each lot
16 - 40	15 or 75%, whichever is greater
41 - 100	30 or 50%, whichever is greater
101 - 300	50 or 25%, whichever is greater
over 300	75 or 15%, whichever is greater

- (3)** New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Chapter of the zoning ordinance provided that:
- (a)** These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
  - (b)** These facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - (c)** The facilities are associated with a residential development approved by the County for the Critical Area and consistent with all State requirements and program requirements for the Critical Area.
  - (d)** Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and
  - (e)** If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

**b.** Where permitted, expansion of existing commercial marinas in Resource Conservation Areas (RCA's), and uses accessory thereto are permitted, such accessory uses being limited to twenty-five (25) percent of the first floor area. Expansion of principal and/or accessory uses may only be permitted if there is a net overall improvement to water quality leaving the site (including minimizing bottom wash waters). Only the following uses which are considered "water-dependent" may be located in the Buffer.

- (1)** Slips;
- (2)** Docks, piers, launching ramps, access roads and paths;
- (3)** Loading and unloading areas;
- (4)** Fuel areas;
- (5)** Fresh water and ice;
- (6)** Phone and electric service;

- (7) Sewage pump-out when any sewerage disposal area is located outside of the Buffer;
  - (8) Marina railways and travel lifts; and
  - (9) Wet covered repair shops.
- c. Public community beaches and other public and community water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas (IDA). These facilities may be permitted within the Buffer in Limited Development Areas (LDA) and Resource Conservation Areas (RCA) provided that:
  - (1) Adequate sanitary facilities exist;
  - (2) Service facilities are, to the extent possible, located outside the Buffer;
  - (3) Permeable surfaces are used to the extent practicable, if no degradation to groundwater would result;
  - (4) Disturbance to natural vegetation is minimized; and
  - (5) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas, if service facilities for these uses are located outside the Buffer.
- d. Water-dependent research facilities or activities operated by State, federal or local agencies, or educational institutions, may be permitted in the Buffer, if non-water dependent structures and facilities associated with the project are, to the extent possible, located outside of the Buffer.
- e. Lands and water areas with high aquacultural potential will be identified by the County in cooperation with the State when applications for new or expanded fisheries or aquaculture facilities in these areas are submitted to the County. These areas are encouraged for that use and if so used, should be protected from degradation by other types of land and water use or by adjacent land and water uses. Commercial water-dependent fisheries including, but not limited to structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

- f. New, expanded, or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas as described in this ordinance and are subject to the provisions set forth in that Chapter, provided that no industrial structure shall be located within five hundred (500) feet of the Mean High Water Line unless such structures are an integral part of the shipping or receiving of waterborne goods or materials required for the operation of the industrial establishment. Only the following industrial and port related water-dependent facilities may be located within the Modified Buffer Area in an IDA:
  - (1) Docks, piers, and access roads;
  - (2) Freight staging areas;
  - (3) Rail lines;
  - (4) Dry docks;
  - (5) Fueling areas; and
  - (6) Public access roads.
  
- 3. No structure connected to the shoreline, such as a dock, pier, boathouse, etc., shall extend outward from the Mean High Water Line from where the structure is connected to the shoreline, more than twenty-five (25) percent of the distance to the Mean High Water Line on the opposite shore, or more than three hundred (300) feet, whichever is the lesser distance. Notwithstanding this provision, no dock or pier shall extend to within the boundaries of any defined navigation channel established by a state or federal agency.
  
- 5. New, expanded, or redeveloped marinas may be permitted in the Buffer within Intensely Developed Areas and Limited Development Areas subject to the requirements set forth in this Chapter. New commercial marinas are prohibited in Resource Conservation Areas (RCA). Expansion of existing commercial marinas is permitted in RCAs only if it is sufficiently demonstrated that expansion will not adversely affect water quality and that it will result in an overall net improvement in water quality at or leaving the site of the marina. New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
  
- 5. Applications for new and expanded water-dependent facilities shall address the following environmental standards:
  - a. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
  - b. That the water body upon which these activities are proposed has adequate flushing characteristics at the site;

- c. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
- d. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized;
- e. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
- f. That dredging shall be conducted in a manner, at such time of the year, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area;
- g. That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area;
- h. That interference with the natural transport of sand will be minimized;
- i. That no disturbances will occur to aquatic areas of historic waterfowl staging and concentration areas.

#### **Section 198-A. Shore Erosion Protection**

1. **Purpose.** The alteration of the natural landscape and the use of structural devices to protect the shoreline from erosion can result in a significant disturbance to the aquatic environment and increase erosion downstream. This section sets forth a plan for limiting the use of structural erosion control devices to only those areas where major erosion problems exist and where living shorelines or nonstructural erosion control measures are not practical or effective. In general, improvements to protect a person's property against erosion shall consist of nonstructural measures that preserve the natural environment, such as marsh creation, maintenance of buffer zones, and the establishment of natural barriers to prevent intrusion on fragile, vegetated shorelines are encouraged. The criteria set forth in this section are not intended to apply to those structures necessarily associated with Water-dependent Facilities as discussed in Section 198.
2. **General policies.** In protecting shore areas from erosion, the County shall follow these policies:

- a. Encourage the protection of rapidly eroding portions of the shoreline in the Critical Area by public and private landowners;
  - b. Where such measures can effectively and practically reduce or prevent shore erosion, require the use of living shorelines and non-structural shore protection measures in order to conserve and protect plant, fish, and wildlife habitat.
- 3. Identification.** Rivers and creeks within the County were, or will be, studied by the County pursuant to the Critical Area Act to identify those areas where erosion was occurring and where erosion control would or would not be needed. Areas where non-structural erosion control devices could be effectively used were identified as well as areas where erosion was so severe that only structural measures could be effectively used to control the erosion. The study considered the following criteria and shoreline characteristics:
- a. Areas where no appreciable erosion appeared;
  - b. Areas where appreciable erosion appeared and where non-structural measures would be practical and effective; and
  - c. Areas where appreciable erosion appeared and where non-structural measures would not be practical in controlling erosion.
- 4. Standards for erosion protection.** The County shall require that each application for shore erosion protection meet the following standards:
- a. Structural control measures shall only be used in areas where appreciable erosion occurs and where non-structural measures would not be practical or effective in controlling erosion as mapped by the Maryland Department of the Environment or otherwise approved by the Maryland Department of the Environment through the waiver process.
  - b. Where structural erosion control is required, the measure that best provides for conservation of plant, fish, and wildlife habitat and that is practical and effective shall be used.
  - c. Living shorelines and non-structural measures shall be utilized in areas of erosion where they would be a practical and effective method of erosion control.
  - d. Structural erosion measures shall not be permitted in areas where no significant erosion occurs.



- e. If significant alterations in the characteristics of a shoreline occur, the measure that best fits the change may be used for sites in that area.
5. **Shoreline changes.** The County recognizes that storms and other natural events may change current shoreline erosion patterns. As a result, an individual may use the Maryland Department of the Environment waiver process to request the use of a structural erosion control device in an area that is not currently designated for structural controls. This request to the County must be accompanied by documentation that identifies the specific location of the site to be protected and describes the event or events that led to the change in the erosion pattern. Notification of such a request shall be sent to the Department for review.
  6. **Process.** The County, in reviewing any application for a permit for structural erosion control devices, shall refer the application to the Soil Conservation District and to the Department of the Environment for field verification of the need for structural erosion control as well as for recommendations on proposed erosion control mechanisms.
    - a. Any application made to the County for the installation of an erosion control device must, at a minimum, include the following information:
      - (1) Photographs of the erosion problem;
      - (2) The specific location of the site indicated on a 7 ½ Minute USGS Topographic Quadrangle Map;
      - (3) Soil type and erodibility; and
      - (4) The proposed and existing land use.
    - b. Applications must include appropriate authorization from the Maryland Department of the Environment and the U.S. Army Corps of Engineers.
  7. **Mitigation.** Most shore erosion control projects involve disturbance to the shoreline and the 110-foot Buffer. Applicants shall be required to mitigate for this disturbance in accordance with the provisions of this Ordinance. Shore erosion control projects that are installed completely from the water and involve only offshore measures, such as breakwaters, may not require mitigation if the applicant demonstrates that the construction does not affect the Buffer.

**Section 199. Development Standards in Intensely Developed Areas (IDAs)**

1. **Description.** Areas where residential, commercial, institutional, and/or industrial developed uses predominate and where relatively little natural habitat occurs. At the time of the initial mapping, these areas shall have had at least one of the following features:

- a. Housing density equal to or greater than four dwelling units per acre;
- b. Industrial, institutional or commercial uses are concentrated in the area; or
- c. Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than three dwelling units per acre;

**2. Additional requirements.** In addition, these features shall be concentrated in an area of at least 20 adjacent acres or that entire upland portion of the Critical Area within the boundary of a municipality, whichever is less.

**3. General policies.** The Critical Area ordinance for Cecil County hereby incorporates the following policies for Intensely Developed Areas. New or expanded development or redevelopment shall take place in such a way as to:

- a. Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams;
- b. Accommodate additional development of the type and intensity designated by the County in this Program provided that water quality is not impaired;
- c. Minimize the expansion of Intensely Developed Areas into portions of the Critical Area designated as Habitat Protection Areas and Resource Conservation Areas under this Program;
- d. Conserve and enhance fish, wildlife, and plant habitats, as identified in the Habitat Protection Area Chapters of this ordinance, to the extent possible within Intensely Developed Areas; and
- e. Prohibit the location of a road, bridge, or utility in any portion of the Critical Area designated as a habitat protection area under COMAR 27.01.09, unless there is no feasible alternative;
- f. If the location of a road, bridge, or utility in a habitat protection area is authorized under the provisions of this Ordinance, design, construct, and maintain the road, bridge, or utility so as to:
  - (1) provide maximum erosion protection;
  - (2) minimize negative impact on wildlife, aquatic life, and their habitats; and

- (3) maintain hydrologic processes and water quality.
- g. Encourage the use of retrofitting measures to address existing stormwater management problems.
- h. Prohibit the location of a development if that development or any related activity would cross or affect a stream, unless there is no feasible alternative.
- i. If the location of a development activity is authorized under (8) of this section, design and construct the development activity so as to:
  - (1) prevent increases in flood frequency and severity that are attributable to development;
  - (2) retain tree canopy and maintain stream water temperature within normal variation; and
  - (3) provide a natural substrate for affected streambeds.
- j. Minimize the adverse water quality and quantity impact of stormwater and encourage the use of retrofitting measures to address existing stormwater management problems.

All uses in the IDA shall be subject to the following development standards and/or conditions in addition to those established in other sections of this Ordinance. Development and redevelopment in those areas designated Intensely Developed Areas (IDAs) shall be subject to the following standards.

- 4. The following uses may only be permitted in an IDA under Section 199, and only after the applicant has demonstrated to all appropriate County and State permitting agencies and departments, that the activity will create a net improvement in water quality to the adjacent body of water.
  - a. Non-maritime heavy industry;
  - b. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); and
  - c. Permanent sludge storage, handling and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an

approved method at approved application rates may be permitted in the Critical Area, except in the one hundred and ten (110) foot-Buffer.

- d. The County may preclude additional development activities, otherwise permitted in the IDA, that it considers detrimental to water quality or fish, wildlife, or plant habitats within the Critical Area.
5. All development plans shall be assessed for their impacts on water quality and other biological resources.
6. For redevelopment plans, opportunities to reduce impacts on water quality generated by existing development shall be analyzed.
7. As part of all plans for development and redevelopment, urban best management practices shall be considered and, where appropriate, implemented.
8. All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of the site within the Critical Area.
9. Development and redevelopment shall be subject to the Habitat Protection Criteria prescribed in COMAR 27.01.09 and those habitat protection requirements prescribed in Section 197 and the Cecil County Critical Area Program. This information shall be made part of the Environmental Impact Assessment Report as part of the application for site plan review.
10. All roads, bridges, and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges, or utilities may not be located in any Habitat Protection Area unless no feasible alternative exists.
11. All development activities that must cross or affect streams shall be designed to:
  - a. Reduce increases in flood frequency and severity that are attributable to development;
  - b. Retain tree canopy so as to maintain stream water temperature within normal variation;
  - c. Provide a natural substrate for stream beds; and
  - d. Minimize adverse water quality and quantity impacts of stormwater.

- 12.** Stormwater shall be addressed in accordance with the following provisions:
- a.** The County shall require, at the time of development or redevelopment, that technologies as required by applicable State and local ordinances be applied by anyone undertaking development activities in order to minimize adverse impacts to water quality caused by stormwater.
  - b.** In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided. Guidance for compliance with this requirement is provided in the *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.
  - c.** In the case of new development, offsets as determined by the County shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels. Guidance for compliance with this requirement is provided in the *Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance – Fall 2003* and as may be subsequently amended.
  - d.** If the required ten (10) percent improvement will not be achieved in the case of either development or redevelopment, then offsets must be provided as approved by the County. Offsets may be provided either on or off site as determined by the County, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures.
- 13.** If practicable, permeable areas shall be established in vegetation and whenever possible, redevelopment shall reduce existing levels of pollution.
- 14.** Areas of public access to the shoreline, such as foot paths, scenic drives and other public recreational facilities, should be maintained and, if possible, encouraged to be established within Intensely Developed Areas.
- 15.** Ports and industries which use water for transportation and derive economic benefits from shore access shall be located near existing port facilities. The County may identify other sites for planned future port facility development and use if this use will provide significant economic benefit to the State or County and is consistent with the provisions of the Water Dependent Facilities Chapter of this ordinance and other State and Federal regulations.
- 16.** The County shall promote, with the assistance from State agencies, participation in programs and activities for the enhancement of biological resources within the Critical Area for their

positive effects on water quality and urban wildlife habitat. These programs may include urban forestry, landscaping, gardens, wetland, and aquatic habitat restoration elements.

- 17.** To the extent practicable, future development in the Critical Area shall use cluster development as a means to reduce impervious areas and to maximize areas of natural vegetation.
- 18.** When the cutting or clearing of trees in forests and developed woodland areas is associated with current or planned development activities, the following shall be required:
  - a.** Participation in programs established by the County for the enhancement of forest and developed woodland resources, such as programs for urban forestry that involve street tree plantings, gardens, landscaping, and open land buffer plantings;
  - b.** Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation; and
  - c.** Development activities shall address the protection of existing forests and developed woodlands identified as Habitat Protection Areas in the applicable sections of this Ordinance.
- 19.** A minimum twenty-five (25) foot buffer shall be established around all non-tidal wetlands as identified in the County Critical Area Program. This Buffer shall be expanded to include adjacent sensitive soils unless the applicant can prove that the development or disturbance of these areas will not adversely impact the wetlands.
- 20.** Proposed development shall be done so as to protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
- 21.** Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
  - a.** Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or

- b. Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used). If published data are not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.

- 22. Public education program.** The County shall use a public education program to alert developers and property owners to potential impacts, mitigation measures and urban best management practices that should be considered as part of projects proposed in intensely developed areas from individual dwellings through major development projects.

**Section 200. Development Standards in Limited Development Areas (LDAs)**

- 1. Description.** Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of the initial mapping, these areas shall have had at least one of the following features:
- a. Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;
  - b. Areas not dominated by agricultural, wetland, forest, barren land, surface water, or open space;
  - c. Areas meeting the conditions of Intensely Developed Area but comprising less than 20 acres;
  - d. Areas having public sewer or public water, or both.
- 2. General policies.** Cecil County's Critical Area ordinance hereby incorporates the following policies for Limited Development Areas. New or expanded development or redevelopment shall take place in such a way as to:
- a. Maintain, or, if possible, improve the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries;
  - b. Maintain, to the extent practicable, existing areas of natural habitat; and
  - c. Accommodate additional low or moderate intensity development if:

- (1) This development conforms to the water quality and habitat protection criteria in Section C. below; and
  - (2) The overall intensity of development within the Limited Development Area is not increased beyond the level established in a particular area so as to change its prevailing character as identified by density and land use currently established in the area.
3. All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features described below, and shall meet all of the following standards of environmental protection. This information shall be made part of the Environmental Impact Assessment Report as part of the application for site plan review.
  - a. Site development shall be designed to assure that features or resources identified as Habitat Protection Areas are afforded protection as prescribed in COMAR 27.01.09 and the provisions of the applicable Chapters of this ordinance. Where said protection of identified Habitat Protection Areas is required, the Environmental Assessment shall include the Habitat Protection Plan (§197.10.a), and the Final Plat shall include appropriate notes.
  - b. Adherence to the provisions of the applicable Chapters of this ordinance regarding water-dependent facilities.
  - c. Roads, bridges, and utilities serving development that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats, and maintain hydrologic processes and water quality. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the developer shall demonstrate that no feasible alternative location for such infrastructure exists and must show how these standards will be met at each phase of the project, i.e., location, design, construction, and maintenance.
4. All development activities which cross, or affect, tributary streams in the Critical Area shall:
  - a. Be designed in a manner to reduce increases in flood frequency and severity attributable to development;
  - b. Provide for the retention of natural streambed substrate;
  - c. Minimize adverse impacts to water quality and storm water runoff; and



- d. Retain the existing tree canopy so as to maintain stream temperatures in the normal range of variation.
- 5. All development sites shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this ordinance. The County shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the County Attorney through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.
- 6. For the cutting or clearing of trees in forests and developed woodland areas which are associated with current or planned development activities in a Limited Development Area, the County shall:
  - a. Require that the applicant consider the recommendations of the Maryland Department of Natural Resources when planning development on forested land;
  - b. Design and implement development activities to minimize the destruction of woodland vegetation; and
  - c. Provide protection for forests and developed woodlands identified as Habitat Protection Areas in this Program.
- 7. For the alteration of forest and developed woodland in the Limited Development Area, the County shall apply all of the following requirements:
  - a. Developed woodland vegetation shall be conserved to the greatest extent possible;
  - b. The total acreage in forest and developed woodlands coverage within the County in the Critical Area shall be maintained or, preferably, increased; and
  - c. All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.
- 8. For replacement of forest and developed woodland, if a development activity is authorized to remove more than 20 percent of forest or developed woodland on a lot or parcel, the developer shall replace the forest or developed woodland at a ratio of 1.5 acres for each acre within the total acreage of forest or woodland removed, including the first twenty (20) percent of the forest or developed woodland removed.

9. A developer shall not remove more than thirty (30) percent of a forest or developed woodland on a lot or parcel, unless the County:
  - a. Authorizes the removal of more than 30 percent by the granting of a variance; or
  - b. Adopts procedures for the removal of 30 percent of a forest or developed woodland and the Commission has approved those procedures as part of the local program.
10. If a developer is authorized to clear any percentage of forest or developed woodland from forest use under this section, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments.
11. Developers shall adhere to the following criteria for forest and woodland development:
  - a. A performance bond shall be collected by the County in an amount determined by the County to assure satisfactory replacement as required by subsections (7), (8), and (9) above;
  - b. Local permits shall be required before forest or developed woodland is cleared;
  - c. Forests and developed woodlands which have been cleared before obtaining a local permit or that exceed the maximum clearing allowed in subsection (9) above shall be replanted at three times the areal extent of the cleared forest and developed woodlands;
  - d. If the areal extent of the site limits the application of the reforestation standards in this section, alternative provisions for reforestation may be permitted by the County if they are consistent with the intent of the Forest and Woodland Protection section of this Ordinance. Alternative provisions must conserve, enhance, or increase the forest and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of a forest mitigation bank if the provisions are adequate to ensure the restoration or establishment of an equivalent forest or developed woodland area;
  - e. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent;
  - f. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments approved by the County Attorney;

- g. The applicant shall designate, subject to the approval of the County, a new forest area on a part of the site not forested; and
  - h. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the County Attorney.
- 12.** Applicants shall adhere to the following standards for development on steep slopes. Development on slopes greater than fifteen (15) percent, as measured before development, shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability and is consistent with the policies and standards for Limited Development Areas set forth above.
- 13.** Except as otherwise provided in this Section, for stormwater runoff, man-caused lot coverage shall be limited to fifteen (15) percent of the gross site:
- a. If a parcel or lot one-half (1/2) acre or less in size existed on or before December 1, 1985, then lot coverage associated with that use is limited to twenty-five (25) percent of the parcel or lot.
  - b. If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25) percent of the parcel or lot.
  - c. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen (15) percent of the parcel or lot.
  - d. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen (15) percent of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen (15) percent.
  - e. Lot coverage limits provided in Paragraphs (a) and (b) above may be exceeded, upon findings by the Director of Land Use and Development Services or his designee that the following conditions exist:
    - (1) Lot coverage associated with new development activities on the property have been minimized;
    - (2) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in Paragraph (a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
    - (3) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in Paragraph (b) or five

thousand, four hundred and forty-five (5,445) square feet, whichever is greater;

- (4) The following table summarizes the limits set forth in paragraphs 1 through 3 above:

<b>LOT/PARCEL SIZE (SQUARE FEET)</b>	<b>LOT COVERAGE LIMIT</b>
0 – 8,000	25% of Parcel + 500 SF
8,001 – 21, 780	31.25% of Parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of Parcel

- f. If the Director of Land Use and Development Services or his designee makes the findings set forth in Paragraph (e) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
- (1) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and
  - (2) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
  - (3) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the County may require the property owner to pay a fee to the County in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.00 per square foot of the required mitigation. The County shall use all fees collected under this provision to fund projects that improve water quality within the Critical Area, consistent with the County's Critical Area Program and Zoning Ordinance.
- g. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements. For the purpose of increasing lot coverage on these parcels, the lot coverage limitations may not be construed to apply to a development activity for which a building permit was issued before July 1, 2008 and construction was initiated and an inspection was performed before July 1, 2009.
- h. These provisions do not apply to a legally existing manufactured home park that

was in residential use on or before December 1, 1985.

- 14.** To reduce the extent of lot coverage and maximize areas of natural vegetation, cluster development shall be considered when planning for future development.
- 15.** Development may be allowed on soils having development constraints if the development includes mitigation measures that adequately address the identified constraints and that will not have significant adverse impacts on water quality or plant, fish or wildlife habitat.
- 16.** If lot coverage is expanded beyond twenty-five (25) percent per Section 200.13.a. or fifteen (15) percent per Section 200.13..b., then the following conditions must be met:
  - a.** Water quality impacts associated with runoff from the new area of lot coverage has been minimized through site design considerations; and
  - b.** The property owner performs on-site mitigation to offset potential adverse water quality impacts from the new area of lot coverage.
- 17.** A minimum twenty-five (25) foot buffer shall be established around all non-tidal wetlands as identified and shall be expanded to include adjacent sensitive areas whose development or disturbance would adversely impact the wetlands.
- 18.** Proposed development shall be done so as to protect the hydrologic regime and water quality of identified non-tidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
- 19.** Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
  - a.** Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or
  - b.** Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used). If published data are not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine

the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.

**20. Complementary State laws and regulations.** In applying this Critical Area Program, the County refers to all of the following complementary existing State laws and regulations:

(a) For soil erosion and sediment control (COMAR 26.17.01):

(1) In order to prevent soil erosion and sedimentation, a Soil Erosion and Sedimentation Control Plan shall be required whenever a development within the Critical Area will involve any clearing, grading, transporting, or other form of disturbance to land by the movement of earth. This plan shall be consistent with the requirements of the Natural Resources Article and Environment Article of the Annotated Code of Maryland and local ordinances. Sediment control practices shall be appropriately designed to reduce adverse water quality impacts.

(b) For stormwater runoff (COMAR 26.17.02):

(1) The County requires limitations on stormwater runoff such that applicants for development must ensure that downstream property, watercourses, channels or conduits do not receive stormwater runoff at a higher volume or rate than would have resulted from a 10-year storm were the land is in its predevelopment state.

(2) The County requires that applicants for development ensure that all stormwater storage facilities shall be designed with sufficient capacity to achieve water quality goals of this Chapter and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its pre-development state.

(A) Stormwater management measures shall be consistent with the requirements of Environment Article 4-201 et seq., Annotated Code of Maryland.

(B) Development activities on individual lots within subdivisions recorded prior to adoption of the provisions in COMAR 26.17.02 shall provide stormwater quantity and quality management unless:

(i) The project is an addition or modification to an existing single family dwelling; or

(ii) The project involves disturbance that does not exceed 5,000 square feet.

**Section 201. Development Standards in Resource Conservation Areas (RCAs)**

- 1. Description.** Resource Conservation Areas are those areas characterized by nature-dominated environments (that is wetlands, forests, abandoned fields) and resource-utilization activities (that is agriculture, forestry, fisheries activities or aquaculture). At the time of the initial mapping, these areas shall have had at least one of the following features:

  - (a) Existing density is less than one dwelling unit per five acres; or
  - (b) Dominant land use is in agriculture, wetland, forest, barren land, surface water or open space.
  
- 2. General policies.** Cecil County's Critical Area ordinance hereby incorporates the following policies for Resource Conservation Areas. New or expanded development or redevelopment in these areas shall take place in such a way as to:

  - (a) Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity and its diversity;
  - (b) Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, the Atlantic Coastal Bays, their tributaries or coastal habitats in order to sustain populations of those species;
  - (c) Conserve the land and water resource base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities and aquaculture; and
  - (d) Conserve the existing developed woodlands and forests for the water quality benefits that they provide.
  
- 3. Development standards.** In implementing this Critical Area ordinance, the County shall use all of the following requirements for Resource Conservation Areas:

  - (a) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area Chapter, the Agricultural Chapter, and the Forest and Woodlands Protection Chapter of this ordinance.
  - (b) Agricultural and conservation easements shall be promoted in Resource Conservation Areas.
  - (c) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per twenty (20) acres. Within this limit

of overall density, minimum lot sizes may be determined by the County. Such mechanisms as cluster development, transfer of development rights, maximum lot size provisions and/or additional means to maintain the land area necessary to support the protective uses will be encouraged by the County and implemented as necessary.

- (d) Existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture or residential development not exceeding the density specified above, shall be allowed in Resource Conservation Areas.
- (e) New commercial, industrial, and institutional uses shall not be permitted in Resource Conservation Areas, except as provided for in the County's growth allocation provisions. Additional land may not be zoned or used for industrial, commercial, or institutional development, except as provided by the County's growth allocation provisions.
- (f) The County shall ensure that the overall acreage of forest and woodland within the RCA does not decrease.
- (g) Development activity within the Resource Conservation Areas shall be consistent with the requirements for Limited Development Areas as specified in this ordinance.
- (h) Nothing in this Chapter shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance and will result in a density greater than one dwelling unit per twenty (20) acres.

**4. Calculation of 1-in-20 acre density of development.** In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the County:

- (a) Shall count each dwelling unit;
- (b) May permit the area of any private wetlands located on the property to be included under the following conditions:
  - (1) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and
  - (2) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the County, the Commission, and the State Department of the Environment.



- (c) May consider one additional dwelling unit as part of a primary dwelling unit for the purpose of the density calculation under this section in accordance with the following provisions:
- (1) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit; does not exceed 900 square feet in total enclosed area; and is served by the same sewage disposal system as the primary dwelling unit; or
  - (2) Is located within the primary dwelling unit; by its construction, does not increase the amount of lot coverage already attributed to the primary dwelling unit; and is served by the same sewage disposal system as the primary dwelling unit;
  - (3) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and
  - (4) The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions under Section 306 "Variances."

**5. Land use in the RCA.** In addition to the uses specified above, certain nonresidential uses may be permitted in Resource Conservation Areas if it is determined by the Department of Land Use and Development Services that the proposed use is one of the following:

- (a) A home occupation as an accessory use on a residential property and as provided for in the County's zoning ordinance;
- (b) A golf course developed in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc.;
- (c) A cemetery that is an accessory use to an existing church; provided impervious surfaces are limited to 15 percent of the site or 20,000 square feet, whichever is less;
- (d) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility;
- (e) A gun club or skeet shooting range or similar use, excluding main buildings and/or structures, such as a clubhouse, snack bar, etc.;
- (f) A day care facility in a dwelling where the operators live on the premises and there are no more than eight children;

- (g) A group home or assisted living facility with no more than eight residents;
- (h) Other uses determined by the County and the Critical Area Commission to be similar to those listed above.

**Section 202. Woodland Reforestation and Afforestation Standards**

1. The following policies for forest and developed woodland protection recognize the value of forested land for its water quality benefits and for habitat protection while accommodating the utilization of forest resources:
  - a. Maintain and increase the forest and developed woodland vegetation in the Critical Area;
  - b. Conserve forests and developed woodlands and provide for expansion of forested areas;
  - c. Provide that the removal of trees associated with a development activity that includes a structure or lot coverage shall be mitigated in accordance with COMAR 27.01.02.04; and
  - d. Recognize that forests are a protective land use and should be managed in such a manner so that maximum values for wildlife, water quality, timber, recreation, and other resources can be maintained, even when they are mutually exclusive.
2. The County has identified and mapped forests and developed woodlands within the Critical Area and has identified and mapped habitat protection areas as described. More detailed evaluation of forest resources on specific sites shall be accomplished as part of the environmental analysis required prior to site plan and subdivision approval.
3. The County adopts the following policies for the protection of riparian habitat:
  - a. Vegetation shall be maintained in its natural condition along all streams to provide wildlife corridors.
  - b. A minimum one hundred and ten (110)-foot Buffer shall extend landward from the mean high water line of tidal water, and the edge of tributary streams and tidal wetlands. This area is to be conserved for wildlife protection.
  - c. Non-tidal wetland forests should be left in a natural state for wildlife and water quality protection.

- d. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (for example relatively mature forested areas within the Critical Area of one hundred (100) acres or more, or forest connected with these areas) shall be conserved.
  - e. Existing riparian forests (for example, those relatively mature forest of at least three hundred (300) feet in width which occur adjacent to streams, wetlands, or the Bay shoreline) and/or which are documented breeding areas shall be conserved.
4. If a forest is to be developed or to be harvested, a site-specific field investigation shall be conducted to determine if important sensitive species are present and to make sure that appropriate protection measures are incorporated into the development plan or Timber Harvest Plan. When proposing development activities within riparian forests or forest areas utilized as breeding areas by forest interior dwelling birds, applicants are advised to review and utilize the guidance found in the Critical Area Commission publication entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended. In addition, the Department of Natural Resources may make specific recommendations based on an evaluation of the site and the proposed development. In general, the following measures are recommended:
- a. Minimize forest and woodlands disturbance from off-road vehicles, public use or logging from May through August of each year;
  - b. Focus all development on the periphery of the forest or woodlands;
  - c. Retain the forest canopy as well as shrub understory;
  - d. Retain snag and mature seed trees as dens for woodpeckers and as nests for bald eagles;
  - e. Discourage the creation of small clearings and expansion of forest edge habitats;
  - f. Encourage re-establishment of native forests and woodlands; and
  - g. Adopt harvest techniques to maintain or improve habitat.
5. The following policies should be used for afforestation and reforestation:
- a. The replacement or establishment of forest or developed woodlands should ensure a diversified plant community and should include canopy trees, understory trees, shrubs and herbaceous plants.
  - b. Native species should be used for all reforestation and afforestation.

6. Unauthorized clearing, cutting, or removal of vegetation; unauthorized clearing, cutting, or removal of vegetation in the Buffer; and clearing, cutting or removal of vegetation in excess of the area permitted to be cleared by this ordinance is considered a civil violation of this ordinance and shall result in enforcement action as specified in Section 214.
7. A planting plan shall be submitted by the developer to the Department of Land Use and Development Services for approval, and must demonstrate compliance with the minimum standards for reforestation and afforestation specified above. It is required that the planting plan shall be prepared by a licensed forester, landscape architect, experienced landscape designer, or a qualified professional.
8. The planting plan must be prepared in coordination with the approved site plan or preliminary and final subdivision plat and shall show:
  - a. The site plan, building outlines (remaining and proposed), walls, fences, parking spaces, loading spaces, driveways, walks, storage areas, public rights-of-way, easements and the general location of structures and uses of abutting properties;
  - b. Existing and proposed grades;
  - c. Existing vegetative cover to be retained, and the location, general size and type of such vegetation;
  - d. The method for protecting plant materials during and after construction;
  - e. A plant schedule and plan, listing plants to be used (giving their botanical and common names), size at time of planting, and quantity of each;
  - f. An indication of whether plants are balled and burlapped, container grown or bare root; and
  - g. An indication of the spacing and location of all proposed trees, shrubs and ground covers.
9. Plant Materials and Planting Schedule:
  - a. Although plant types should be chosen from the recommended plant list available from the Department of Land Use and Development Services or Maryland State Bay Watershed Forester, plant types that vary from this list may be substituted. Plants for afforestation or reforestation shall be suitable in regard to their eventual size and spread, susceptibility to diseases and pests, and adaptability to existing soil and climate conditions.



- (3) No planting shall result in vegetative growth exceeding thirty-six (36) inches in height, within thirty (30) feet of any street intersection or otherwise obstruct sightlines.

#### **Section 202-A. Commercial Timber Harvesting.**

1. **General policies.** A goal of the Critical Area program is to maintain or increase the lands in forest cover, because forests provide protection of the water quality and habitat values of the Chesapeake Bay and its tributaries
2. **Process.** Landowners proposing to harvest timber within any one year interval and affecting one or more acres in the Critical Area shall submit a "Timber Harvest Plan." This plan shall be prepared by a registered professional forester. The Timber Harvest Plan shall be reviewed and approved by the Department of Natural Resources and the District Forestry Board. The approved plan shall be filed with the County Soil Conservation District and the approved plan shall be sent to the Department of Land Use and Development Services prior to beginning timbering operations. Said office shall review the plan to assure its consistency with this program.
3. **Timber Harvest Plan contents.** Plans shall include measures to protect surface and groundwater quality and identify whether the activities will disturb or affect Habitat Protection Areas as identified in this ordinance and shall incorporate protection measures for these areas as specified. To provide for the continuity of habitat, the plans shall address mitigation through forest management techniques which shall include scheduling size, timing and intensity of harvest cuts, afforestation and reforestation.
4. **Sediment Control Plans.** In the Critical Area, any landowner who plans to harvest timber on an area which will disturb 5,000 square feet or more including harvesting on agricultural lands shall submit a Sediment Control Plan. This plan is also required for any harvests which will cross perennial or intermittent streams. This plan shall be developed according to the State guidelines entitled: "Standard Erosion and Sediment Control Plan for Harvest Operations". The operations shall be implemented in accordance with specifications set out by the Department of Natural Resources and enforced by the Department of the Environment and the County.
  - a. If cuts and fills are three feet or more, if grades for roads are 15 percent or more, or if landings are on slopes of 10 percent or more, then the landowner must get a custom Sediment Control Plan for the operation. These are prepared by Registered Professional Foresters and include controls necessary to prevent site erosion and to ensure site stabilization. This plan shall be submitted to the local Soil Conservation District for approval and notice of approval sent to the Department of Land Use and Development Services.

- b. If a custom Sediment Control Plan is not required, a Standard Erosion and Sediment Control Plan is available through the Soil Conservation District. The landowner shall provide the following information:
    - (1) Location description;
    - (2) Harvest operation description;
    - (3) Sketch map of the property showing acres to be cleared;
    - (4) Identification of the landowner, licensed timber harvest operator, and other operators or subcontractors.
  - c. Either the owner or the operator shall take responsibility for implementation of the Sediment Control Plan or each subcontractor must file a separate plan.
  - d. The landowner must sign the agreement to certify that he understands the terms of the plan and is responsible for preventing erosion and sedimentation during the forest harvesting.
5. **Buffer protection standards for timber harvests.** Timber harvests are permitted in the Buffer in accordance with the provisions of Sections 195.3(c) and 196.9.

**Section 202-B. Agriculture**

- 1. **Purpose.** The County's intent is to maintain agriculture and forestry as viable and productive land uses within the Critical Area. The County has identified agriculture and the protection of agricultural land uses and activities as a priority in the County's Comprehensive Plan. The County works cooperatively with the Soil Conservation District, the County Agricultural Land Preservation Advisory Board, the Farm Bureau, and other appropriate agencies to promote sound land and water stewardship on agricultural lands.
- 2. **General policies.** The County shall follow all of the following policies with regard to agriculture in the Critical Area:
  - a. Assure that agricultural lands are identified and that programs are established for the Critical Area to maintain, where appropriate, agricultural lands in agricultural use, to the greatest extent possible.

- b. Recognize that agriculture is a protective land use that should be properly managed so that it minimizes its contribution to pollutant loadings to the Bay and its tributaries.
- c. Assure that the creation of new agricultural lands is not accomplished:
  - (1) By diking, draining or filling of any class or subclass of palustrine wetlands, as described in this program which have a seasonally flooded or wetter water regime, unless mitigation is accomplished in accordance with as applicable State and County regulations;
  - (2) By clearing of forests or woodlands on soils with a slope greater than 15 percent; or on soils with a "K" value greater than .35 and slope greater than five (5) percent;
  - (3) If the clearing will adversely affect water quality or will destroy plant and wildlife habitat as defined in this ordinance; or
  - (4) By the clearing of existing natural vegetation within the Buffer as defined in this ordinance.
- d. Assure that the drainage of non-tidal wetlands for the purpose of agriculture be done in accordance with a Soil Conservation and Water Quality Plan, approved by the County Soil Conservation District.
- e. Assure that Best Management Practices for the control of nutrients, animal wastes, pesticides and sediment runoff be used to protect the productivity of the land base and enhance water quality. These practices shall minimize contamination of surface and groundwater and further, shall minimize adverse effects on plants, fish and wildlife resources.
- f. Assure that animal feeding operations, including retention and storage ponds, feed lot waste storage and manure storage minimize the contamination of water bodies.
- g. Assure that agricultural activity permitted within the Critical Area use Best Management Practices in accordance with a Soil Conservation and Water Quality Plan approved by the County Soil Conservation District.

**3. Performance standards for agriculture.** The following performance standards shall be adopted for all land in agricultural use or to be converted to agricultural use within the Critical Area:



- a. The County hereby incorporates the agricultural components of the State 2008 Water Quality Plan into this program. These components shall be applicable to all agricultural activities in the Critical Area.
- b. Soil Conservation and Water Quality Plans and Best Management Practices shall be developed and implemented for those portions of farms which lie within the Critical Area. Local farmers shall cooperate with the local Soil Conservation District for approval of their proposed plans. Landowners who have signed up as Conservation District operators but who do not have a Conservation Plan prepared for them by the local Conservation District shall be allowed to continue to farm until a Conservation Plan is developed provided that the goals of this program are being met.
- c. A landowner shall select and implement, with the assistance of a technically trained soil conservation planner or technician, from among the several best management practices that minimize impacts to water quality, conserve fish, wildlife, and plant habitat, and integrate best with the farming operation.
- d. Until such time as the farm plans are developed and implemented farmers shall as a part of the program be encouraged to use the following practices:
  - (1) Cover crops shall be planted to reduce erosion;
  - (2) Nutrients shall be applied at the appropriate time and appropriate methods shall be used;
  - (3) Reduced tillage (e.g.) no till practices shall be utilized where practical; and
  - (4) Crop rotations shall be implemented where effective.

**4. Agricultural activities in the Buffer.** Agricultural activities are permitted in the Buffer in accordance with the provisions of Section 196.8.

#### **Section 202-C Surface Mining in the Critical Area**

- 1. Applicability.** The provisions of this section apply to all existing and proposed operations engaged in the extraction or removal of minerals, sand, gravel, rock, stone, earth or fill and activities related to surface mining. These activities include, but are not limited to, operations engaged in processing minerals at the site, removal and mining when done for the purpose of prospecting, washing mined material, and loading and transporting mined material.

2. **General policies.** The County shall assure that all available measures are taken to protect the Critical Area from all sources of pollution from surface mining operations including, but not limited to, sedimentation, siltation, chemical and petrochemical use and spillage, and storage and disposal of waste, dusts, and spoils. The County shall further assure that surface mining is conducted in a way to permit the reclamation of surface mining sites as soon as possible and to the extent possible.
3. **Mineral Resource Plan and Program.** The County will develop and comply with a Mineral Resource Plan and Program for Management if applicable.
4. **Standards.** Surface mining operation permits are issued by the Maryland Department of the Environment (MDE) and periodic site inspections of permitted areas are made to determine whether the conditions of the permit and the accompanying Reclamation Plan are being fulfilled. Local approvals and related permits for surface mining operations in the County in the Critical Area shall only be granted if the following conditions are met:
  - a. A Reclamation Plan shall be submitted as part of the permit application which specifies the use which is proposed to be made of the site following reclamation, the manner in which that soil and subsoil are to be conserved and restored, the specifications for surface gradient restoration suitable for the subsequent use, the proposed manner and type of re-vegetation or other surface treatment of affected areas and an acceptable schedule to the County for the implementation of reclamation measures. Reclamation is to occur as mining on each segment of a site is completed;
  - b. The operation will not have an unduly adverse effect on wildlife, forests, or fresh water, estuarine or marine fisheries;
  - c. The operator has provided applicable permits from all federal, State and local regulatory agencies responsible for air and water pollution and sediment control; and
  - d. Adequate consideration shall be given to:
    - (1) The effects of the proposed action on the environment, including adverse and beneficial environmental effects that are reasonably likely if the proposal is implemented or if it is not implemented.
    - (2) Measures that might be taken to minimize potential adverse environmental effects and maximize potential beneficial environmental effects, including monitoring maintenance, replacement, operation and other follow-up activities.

- (3) An applicant's previous experience with similar operations which indicates that the operation will not result in substantial deposits of sediment in stream beds or lakes, landslides, or other causes of water pollution.

**5. Location of future sites.** Presently most of the Resource Conservation Area of the County's Critical Area is zoned for agricultural or conservation use. Proposed new surface mining sites or expanded operations of existing sites shall comply with the following:

- a. New surface mining operations are permitted within the Critical Area provided that identification of appropriate post-excitation uses for this land such as recreation, habitat restoration, open space use, or development are accomplished according to the appropriate land management classification (IDA, LDA, or RCA) and other applicable County and State codes and ordinances.
- b. Areas such as the following shall not be used for surface mining:
  - (1) Habitat Protection Areas and other important natural resource areas such as those of scientific value or areas where assemblages of rare species occur;
  - (2) Areas where highly erodible soils exist;
  - (3) Areas where the use of renewable resource lands would result in the substantial loss of long-range (25 years or more) productivity of forest and agriculture, or would result in a degrading of water quality or a loss of vital habitat;
  - (4) Lands that are within 110 feet of the mean high water line of tidal waters, tidal wetlands, or the edge of streams.
- c. Surface mining operations shall operate under the following conditions:
  - (1) Future wash plants including ponds, spoil piles, and equipment may not be located within the Buffer as defined in this ordinance;
  - (2) Existing wash ponds shall be reclaimed as soon as possible after the cessation of a sand and gravel operation;
  - (3) To the fullest extent possible, existing sand and gravel operations shall conduct their extraction activities so as to provide, at a minimum, a 110 foot Buffer of natural vegetation between the operation and the mean high water line of tidal waters or the edges of streams and tidal wetlands, whichever is further inland.

**Section 203. Amendments in the Critical Area District**

1. Amending the Critical Area Boundary, Land Use Management Classifications, Buffer Exemptions, and Exclusion.
  - a. The County Council may from time to time, but not more than four times a year, amend the Cecil County Critical Area Program. Critical Area Program changes include, but are not limited to, amendments, revisions, and modifications to zoning regulations, subdivision regulations, Critical Area Maps, implementation procedures, and local policies that affect the County's Program. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in Section 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law Section 8-1809(i) and Section 8-1809(d), respectively.
  - b. In addition, the County Government will review its entire Program and propose any necessary amendments to its entire Program, including Critical Area maps at least every six (6) years. The County Government's Comprehensive Review to the Critical Area Commission shall be in accordance with Subtitle 18, Subsection 8-1809 (g) of the Critical Area Law. The anniversary of the date that the Program became effective shall be used to determine when the review shall be completed. Within 60 days after the completion of the review, the County will send the following information in writing to the Commission:
    - (1) A statement certifying that the required review has been accomplished;
    - (2) A list of necessary requests for program amendments, program refinements, or other matters that the County wishes the Commission to consider;
    - (3) An updated resource inventory; and
    - (4) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.
  - c. Except for program amendments or refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by the County Council upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:
    - (1) Are wholly consistent with the land classifications in the adopted Program;or

- (2) Propose the use of growth allocation in accordance with the growth allocation provisions of this Ordinance.
  - d. When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the County Council. The County Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. After the County Council approves an amendment, they shall forward their decision and applicable ordinances and resolutions along with the amendment request to the Critical Area Commission for final approval.
  - e. When the County submits a request for review and approval of changes to any element of the County's Critical Area Program, including, but not limited to, the zoning ordinance, subdivision regulations, or Critical Area Maps, the request will include all relevant information necessary for the Chairman of the Commission, and as appropriate, the Commission, to evaluate the changes. The Chairman, and as appropriate, the Commission, shall determine if the requests for Program changes are consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all Criteria of the Commission. The Critical Area Commission's process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809.
  - f. In accordance with the determination of consistency outline above, the Chairman, or as appropriate, the Commission will:
    - (1) Approve the proposed program refinement or amendment and notify the local jurisdiction;
    - (2) Deny the proposed program refinement or amendment;
    - (3) Approve the proposed program refinement or amendment subject to one or more conditions; or
    - (4) Return the proposed program refinement or amendment to the County with a list of changes to be made.
2. Applications for land use management classification or Critical Area Program amendment, Buffer Modification Area or area exclusion shall be processed as any other proposed amendment to this Ordinance and are subject to the Chesapeake Bay Critical Area Commission approval.
3. Requirements for Amendments:

- a. Land Use Management Classification - When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), the County Council shall not approve an amendment unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) or Special Growth Allocation (SGA) floating zone district classification.
- b. Buffer Modification Areas (see Section 195) - The County Council may designate an area of the Buffer as a Buffer Modification Area, where the applicant can sufficiently demonstrate that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area portion of the site as of December 1985 prevents the Buffer from performing its function. At a minimum, in order to grant a Buffer Modification Area, the Council shall find that the following conditions exist:
  - (1) Existing development as of December 1985 has altered the natural state of the site such that it has more than fifty (50) percent impervious surface and less than twenty (20) percent vegetative cover;
  - (2) The Buffer area consists of boulders or inert fill that does not and cannot support vegetative growth; and
  - (3) The Buffer area can support less than fifty (50) percent vegetative cover, such area cannot provide continuous vegetative cover along the Buffer, and stormwater runoff from the adjacent upland is diverted around the area by existing storm drains.
- c. Excluding Area From the Critical Area District - The County Council may amend the Critical Area District to exclude an area proposed for development from the provisions of the Article XI, Part I of this Ordinance, provided that:
  - (1) Excluded properties or portions of properties must be located at least 1,000 feet from open water;
  - (2) Intervening wetlands and uplands serve to protect tidal water quality and fish and wildlife or plant habitats from adverse impacts of development in the excluded areas.
- d. Adding land to the Critical Area District
  - (1) The County Council may amend the Critical Area Boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment provided that:
    - (A) It is documented that the benefits from the additional resource protection afforded the area exceeds the negative impact of any

additional development allowed and that provisions are proposed to ensure the continuance of these benefits.

- (B) The proposal is supported by competent and material evidence on its benefits for resource protection.
  - (C) The proposal clearly improves resource protection on primarily undeveloped land.
  - (D) The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements.
  - (E) Five percent of the extended areas that are not tidal wetlands or publicly-owned land can generate growth allocation for the County.
- d. Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.
4. When the County submits a request for review and approval of any changes to any element of the County's Critical Area program, including but not limited to, the zoning ordinance, subdivision regulations, or Critical Area maps, the request shall include all relevant information necessary for the Chairman, and as appropriate the Commission, to evaluate the changes. The Chairman, and as appropriate the Commission, shall determine if the requests for program changes are consistent with the purposes, policies, goals, and provisions of the Critical Area law and of the Commission. In accordance with the determination of consistency as outlined above, the Chairman, or as appropriate, the Commission shall:
- a. Approve the proposed program refinement or amendment and notify the local jurisdiction;
  - b. Deny the proposed program refinement or amendment;
  - c. Approve the proposed program refinement or amendment subject to one or more conditions; or
  - d. Return the proposed program refinement or amendment to the local jurisdiction with a list of changes to be made.

**Section 204. Growth Allocation Floating Zone Amendments**

1. Zoning Amendment Petitions for the Growth Allocation Floating Zone classification shall be subject to a different set of criteria than those outlined in Section 203. Floating zone requests

shall be reviewed under the provisions relating to Growth Allocation unless it qualifies for Project Point Scoring System Exemption and is approved by the County Council and by the Critical Area Commission.

**2.** The Growth Allocation floating zones are zones that are not mapped but that are designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited Development Areas (LDA) within the Critical Area District. The purpose of the Growth Allocation floating zone is to permit a change in the land management classification established in the Critical Area District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification, whichever is more restrictive. Only projects that have been approved by the County Council and the Critical Area Commission for award of the Critical Area Growth Allocation by Special Growth Allocation, by the Project Point Scoring System process, or by a Project Point Scoring System Exemption as described in this ordinance and the Cecil County Critical Area Program are eligible for Growth Allocation floating zones.

**3.** Designation of Growth Allocation Floating Zones

- a.** The Growth Allocation (GA) district and the Special Growth Allocation (SGA) district shall be floating zones. Both are classified as floating zones to achieve specific purposes.
- b.** The Growth Allocation (GA) district provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA district shall only be permitted on sites or portions of sites that have been awarded reclassification through either:
  - (1)** the Growth Allocation Project Point Scoring System process described herein;
  - (2)** the Special Growth Allocation process described herein, or;
  - (3)** the Project Point Scoring System Exemption as described in Section 212 below.

These are approved land management classification changes, adopted by County Council, as an amendment to the Cecil County Critical Area Program and Official Maps. Granting of the GA district classification shall further be limited in the sections of this Article set forth below as applicable.

- c.** The Special Growth Allocation (SGA) district provides for changing the land management classification of Resource Conservation Areas (RCAs) in the Critical Area District to the Limited Development (LDA) classification. The SGA district shall only be permitted for residential development on sites or portions of sites recommended for approval by the Cecil County Planning Commission and approved by the Cecil County



Council. Granting of the SGA district classification shall further be limited in the sections of this Article set forth below.

**Section 205. Growth Allocation (GA) District**

Growth allocation means the number of acres of land in the Critical Area that Cecil County may use to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation acreage available to the County was calculated based on five percent of the total Resource Conservation Area in the County at the time of the original approval of the County's program by the Commission, not including tidal wetlands or land owned by the federal government.

The following provisions shall apply to the GA district:

1. The total number of acres that may be utilized for GA inside the Low Density, Medium Density, Medium High Density, High Density, Residential Mixed Use, Employment Mixed Use, and Employment Land Use Districts described in the County Comprehensive Plan will be limited to a total of fifty (50) percent of the total GA acreage available. The total number of acres that may be utilized for GA inside the towns of the County will be limited to a total of twenty-eight (28) percent of the total GA acreage available. The balance, or twenty-two (22) percent, may be utilized in any area of the County. However, if the County Council find that, based on the number of projects that exceed the scoring threshold, the awarding of a larger portion of the growth allocation to any single project proposed within the Low Density, Medium Density, Medium High Density, High Density, Residential Mixed Use, Employment Mixed Use, and Employment Land Use Districts described in the Comprehensive Plan, or municipal town boundaries is warranted, they may utilize any percentage of acreage from the total acres for the GA district award.
  - a. Growth Allocation awarded to the Towns shall follow the following procedure:
    - (1) A request for GA from the Towns shall be made to the Department of Land Use and Development Services.
    - (2) The Department of Land Use and Development Services shall place the request on the meeting agendas for the Planning Commission and County Council.
    - (3) The Planning Commission shall review the request and forward a recommendation to the County Council.
    - (4) The County Council shall decide whether to grant the request.
  - b. Growth Allocation requests from the Towns shall contain the following information:

- (1) Demonstration of consistency with the Town's Comprehensive Plan;
  - (2) Existing Critical Area Designation and Requested Designation;
  - (3) Number of acres requested and justification for acreage;
  - (4) Demonstration of consistency with the Town's Critical Area regulations;
  - (5) Demonstration of minimal impact to sensitive areas and habitats of rare, threatened, and endangered species;
  - (6) Maximization of clustering to the extent possible;
  - (7) Concept plat for the proposed development;
  - (8) Information as outlined in Appendix C of this Ordinance.
2. The County Council may award all or part of the requested Growth Allocation with GA district reclassification. In addition, the County Council may decide not to grant any projects Growth Allocation based on scores received in the Project Point Scoring System when project scores are below the minimum scoring threshold.
  3. The total number of acres that may be reclassified to the GA district for a single project in an RCA to IDA conversion will be limited to twenty (20) acres.
  4. The total number of acres that may be reclassified to the GA district for a single project in an LDA to IDA conversion will be limited to twenty (20) acres.
  5. The total number of acres that may be reclassified to the GA district for a single project in an RCA to LDA conversion will be limited to forty (40) acres.
  6. The maximum lot size shall not exceed the minimum individual lot size required by the Cecil County Environmental Health Department.
  7. If one-third of a project's building permits for construction have not been obtained within two (2) years of a projects final approval, the Growth Allocation award shall become null and void. Further, the award shall be recaptured by the County unless an extension is granted by the County Council. Extensions cannot be granted for more than one year at any one time.
  8. The forwarding of any particular project to the Critical Area Commission shall be based on the Critical Area law, Critical Area Commission policy guidelines for amendments, and the ability of Cecil County to make amendments in a particular calendar year.
  9. When locating new Intensely Developed or Limited Development Areas, the County shall use the following standards:

- a. Locate new Intensely Developed Areas in Limited Development Areas or adjacent to existing Intensely Developed Areas;
  - b. Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area;
  - c. New Intensely Developed Areas shall be at least 20 acres in size unless:
    - (1) They are contiguous to an existing IDA or LDA; or
    - (2) They are a grandfathered commercial or industrial use, which existed as of the date of local Program approval. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
  - d. No more than one-half of the County's allocated expansion may be located in Resource Conservation Areas except as provided in subsection i, below;
  - e. Locate a new Limited Development Area or an Intensely Developed Area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality; and
  - f. Locate new Intensely Developed Areas or Limited Development Areas in Resource Conservation Areas at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.
  - g. New Intensely Developed Areas should be located where they will minimize the impacts to the defined land uses of the Resource Conservation Area.
  - h. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the County for such areas, shall be so designated on the County Critical Area Maps, and shall constitute an amendment to this program subject to review and approval by the County Planning Commission, the County Council, and the Critical Area Commission
  - i. If the County is unable to utilize a portion of its growth allocation as set out in paragraphs (1) and (2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the allocated expansion which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in (4) above. An applicant shall be required to cluster any development in an area of expansion authorized under this paragraph.
10. In reviewing map amendments or refinements involving the use of growth allocation, the Commission shall consider the following factors:
- a. Consistency with the County's adopted comprehensive plan and whether the growth

allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the comprehensive plan:

- (1) Policies;
  - (2) Timing of the implementation of the plan, of development, and of rezoning;
  - (3) Development patterns;
  - (4) Land uses; and
  - (5) Densities or intensities
- b. For a map amendment or refinement involving a new Limited Development Area, whether the development is:
- (1) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
  - (2) A completion of an existing subdivision;
  - (3) An expansion of an existing business; or
  - (4) To be clustered.
- c. For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
- (1) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
  - (2) A completion of an existing subdivision;
  - (3) An expansion of an existing business; or
  - (4) To be clustered;
- d. The use of existing public infrastructure, where practical;
- e. Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;
- f. Impacts on a priority preservation area, as defined under Section 2-518 of the Agriculture Article;
- g. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
- h. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.
11. When the County submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the County has applied the preceding

standards and shall provide information as necessary for the Commission to consider the additional factors set forth above. The Commission shall ensure that standards and factors set forth in this Chapter have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all Criteria of the Commission.

12. The following standards shall be used to determine the area of growth allocation to be deducted when the designation of a parcel or a portion of a parcel is changed through the growth allocation process:
  - a. Subdivision of any parcel of land that was recorded as of December 1985, and classified as RCA where all or part of the parcel is identified by the County as a growth allocation area, shall result in the acreage of the entire parcel, not in tidal wetlands, being deducted from the jurisdiction's growth allocation, unless the development envelope concept outlined in subsection b below, is used.
  - b. In order to allow some flexibility in the use of growth allocation when development is only proposed on a portion of the property, the following methodology may be used. On a parcel proposed for the use of growth allocation, a single development envelope may be specified, and the acreage of the development envelope rather than the acreage of the entire parcel shall be deducted from the County's growth allocation if the development envelope meets the following criteria:
    - (1) The development envelope shall include individually owned lots, required buffers, impervious surfaces, roads, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria. The required buffers refer to the minimum 110 foot Buffer and the 25 foot nontidal wetlands buffer;
    - (2) Only one development envelope shall be established per parcel of land;
    - (3) If a development envelope is proposed in the RCA, a minimum of 20 acres must remain outside of the development envelope or the acreage of the entire parcel must be deducted. If the original parcel in the RCA is less than 20 acres, then the acreage of the entire parcel must be deducted. If there is a permanently protected Resource Conservation Area (an area protected by easement) adjacent and contiguous to a residue that is less than 20 acres, that will result in a minimum 20 acre residue, then the entire parcel does not have to be deducted; and
    - (4) The minimum 20 acre residue outside of the development envelope may be developed at an RCA density unless some type of permanent protection exists that restricts development.

- c. For growth allocation proposed in the RCA, a 300 foot naturally vegetated Buffer is strongly encouraged and where it is provided, it shall not be deducted even if the Buffer does not meet the 20 acre requirement.

#### **Section 206. Award Process for Growth Allocation**

1. Applications for Growth Allocation must be consistent with the current zoning of the property. No project for Growth Allocation will be accepted which is not consistent with the density permitted in the current base zoning classification. A scoring threshold will be established to screen projects. Only those projects scoring a total score at or above the minimum scoring threshold (90 points) shall be considered for Growth Allocation and granted the Growth Allocation Floating Zone. All submissions shall be consistent with the requirements set forth in Appendix C.
2. **Technical Advisory Committee (TAC).** All applications for GA district classification and Growth Allocation will be reviewed upon submittal at the regularly scheduled Technical Advisory Committee meetings. The decision to recommend reclassifying a site to the GA district and to award Growth Allocation will be based on a project point scoring system found in Sections 207 and 208.
3. **Planning Commission.** A point scoring recommendation shall be received by the Planning Commission regarding each application for GA from the developer and the Department of Land Use and Development Services. Points will be assigned by Department of Land Use and Development Services staff, and by the Planning Commission at their regular meeting, or at a special meeting (if in their opinion it is deemed necessary). The decision to recommend reclassifying a site to the GA district and to award Growth Allocation will be based on the Cecil County Comprehensive Plan, the Cecil County Critical Area Program and on a project point scoring system found in Sections 207 and 208.
4. **County Council.** A point scoring recommendation shall be received by the County Council regarding all applications for Growth Allocation from the developer. The Planning Commission and the Department of Land Use and Development Services shall forward their recommendations for the County Council's consideration. A decision of approval, disapproval, tabling, or conditional approval shall be made by the County Council at their regular meeting, or at a special meeting (if in their opinion it is deemed necessary). The decision to reclassify a site to the GA district and to award Growth Allocation will be based on the Cecil County Comprehensive Plan, the Cecil County Critical Area Program, and the Growth Allocation process established in this Ordinance.
5. **Critical Area Commission.** A conditional decision shall be received by the Critical Area Commission from the County Council regarding the Growth Allocation

application. A decision of approval, disapproval, tabling, or conditional approval shall be made at their regular meeting, or at a special meeting (if in their opinion it is deemed necessary). The final decision regarding the Growth Allocation application shall be made by the Critical Area Commission.

#### **Section 207. Project Point Scoring System Thresholds**

- 1.** Points will be awarded to projects based on the following scoring system. The award of points is contingent upon the proposal including the required performance standards listed below. These points were developed to ensure development design which maximizes habitat protection, enhances water quality, minimizes disturbance to the natural environment and fulfills objectives of the Chesapeake Bay Critical Area Act's Criteria. Applications for GA must receive at least 90 points (minimum scoring threshold) to be considered for an award of GA and reclassification.
  
- 2.** The following general provisions shall apply to all submittals for award for Growth Allocation:
  - (a)** For residential development, the maximum lot size permitted in a RCA conversion is the minimum lot size permitted on the site by the Environmental Health Department Regulations.
  
  - (b)** In a RCA to LDA conversion, higher points will be awarded for having a sixty (60) percent open space ratio. This will allow the majority of the site to continue to provide the benefits of RCA, since it will be dominated by agriculture, wetlands, forest, barren land, surface water, or open space and protective land uses. The impact of the Growth Allocation conversion will be less than if a smaller open space ratio is achieved. Tidal wetlands, reforested areas, and Buffer extensions may be counted in the sixty (60) percent open space ratio provided that at least three-quarters ( $\frac{3}{4}$ ) of the open space is upland.
  
  - (c)** In a RCA or LDA to IDA conversion, higher points will be awarded for providing a thirty (30) percent open space ratio if evidence is included that the site continues to exhibit the characteristics of a LDA, i.e., containing areas of natural plant and animal habitats, and that the quality of runoff is not substantially altered or impaired. If these conditions can be demonstrated, it is assumed that the impact of the Growth Allocation conversion is less than if a smaller open space ratio is achieved. Tidal wetlands, reforested areas, and Buffer extensions may be counted in the 30 percent open space ratio, provided that at least three-quarters ( $\frac{3}{4}$ ) of the open space is upland areas.
  
  - (d)** All proposed projects located adjacent to a municipality will be scored in the same manner as all other projects, except that such projects may be designed to the

development codes of the adjacent municipality (including the municipality's Critical Area Program) if it is to be annexed. In addition, projects endorsed by a municipality will be awarded special bonus points, provided the entire proposed development site is to be annexed into the municipality. Such projects shall be incorporated into the municipality within one (1) year of approval or the Growth Allocation is subject to reevaluation.

- (e) In an RCA to LDA conversion that involves land only in the Critical Area, calculation of the maximum permitted density will be based on Critical Area acreage. The maximum permitted density within the Critical Area portion of the site may not exceed the base zone density for the Critical Area portion of the site or 3.99 units per acre, whichever is less.
- (f) In an RCA to LDA conversion, where non-Critical Area portions of a site are included in the development, the maximum permitted density may not exceed the base zoning density calculated for the entire site, or 3.99 units per acre as calculated based on the size of the Critical Area portion of the site, whichever is less.
- (g) In a RCA or LDA conversion to IDA, the permitted maximum density or intensity shall not exceed that permitted by the base zoning.
- (h) Large Lot Residential is defined as lot size in excess of the minimum required by the Cecil County Environmental Health Department.
- (i) A development pad (permitted area of disturbance) is defined as the area of a lot devoted to structures, drives and parking areas, and any necessary grading.
- (j) In projects that include water-dependent facilities, locating such facilities in the Buffer will not be reason for denying Buffer points, if a Buffer is provided on portions of the site that are not required for locating such facilities. In such cases, Buffer points for water-dependent facilities will be awarded as set forth below, provided non-water dependent facilities are not located in the Buffer.
- (k) Parcels having already utilized the Special Growth Allocation are not eligible for this contest.
- (l) Community sewer facilities shall be required for conversion to IDA. If a community sewer facility is not present or not proposed as part of the development, conversion to IDA shall not be permitted.

**Section 208. Point Criteria and Values**



The Minimum Scoring Threshold shall be 90 points. Points shall be assigned in the following categories:

- 1.** Development Type (maximum possible points = 40)
  - a.** Clustering. Where dwelling units are concentrated in a selected area of the development tract so as to provide natural habitat or other open space uses on the remainder of at least 60 percent, at least three quarters of the open space shall be upland. Points = 15
  - b.** Conversion of RCA to LDA
    - (1)** In a conversion of RCA to LDA where a 60 percent open space ratio is maintained throughout the entire Critical Area portion of the site only. Points = 12, and  
  
If this open space is linked to other permanently established open space, publicly or privately held, or maintains contiguity among forested areas, bonus points shall be awarded. An additional 3 Points
    - (2)** Where a 60 percent open space ratio is maintained throughout the entire site, and where open space outside the Critical Area portion of the site is a minimum of 20 acres. Points = 22, and  
  
If this open space is linked to other permanently established open space, publicly or privately held, or maintains contiguity among forested areas, bonus points shall be awarded. An additional 3 Points
  - c.** Conversion of RCA and LDA to IDA
    - (1)** Where a 30 percent open space ratio is maintained throughout the entire Critical Area portion of the site only. Points = 12, and if this open space is linked to other permanently established open space, publicly or privately held, or maintains contiguity among forested areas, bonus points shall be awarded. An additional 3 Points
    - (2)** Where a 30 percent open space ratio is maintained throughout the entire site, and where open space outside the Critical Area portion of the site is a minimum of 20 acres. Points = 22, and

If this open space is linked to other permanently established open space, publicly or privately held, or maintains contiguity among forested areas, bonus points shall be awarded. An additional 3 Points

**2. Buffer Enhancement (maximum possible points = 20)**

- a. Points shall be awarded for additional Buffer enhancement that occurs as outlined in the following Table 1 and criteria below.

Table 1

<u>Minimum Depth of Buffer</u>	<u>Points</u>
Required*	0
Required* plus 50 feet	4
Required* plus 100 feet	6
Required* plus 150 feet	7
Required* plus 200 feet	9

\* Required = 110 feet plus any expansion required by location of the Buffer adjacent to sensitive areas as specified in Section 196.

- b. Points shall be awarded for additional Buffer enhancement by afforestation that occurs as outlined in Table 2 and criteria below.

Table 2

	<u>Portion of Buffer afforested by Applicant</u>				<u>Depth of Buffer</u>
	<u>25%</u>	<u>50%</u>	<u>75%</u>	<u>100%</u>	
Points	1	2	3	4	Required (as above)
Points	2	3	4	5	Required + 200'

- c. Where a 50-foot forested buffer, which remains in open space, is established along all drainageways on the site. Points = 4, or
- d. Where a 50-foot forested buffer, which remains in open space, is established along all drainageways on the site, including those portions of the site located outside the Critical Area. Points = 6

**3. Location of Development (maximum possible points = 15)**

- a. Conversion of RCA or LDA to new IDA which is located adjacent to existing LDA or adjacent to existing IDA. Points = 10, or
- b. Conversion of RCA to new LDA which is located adjacent to existing LDA or adjacent to existing IDA. Points = 10, and
- c. All proposed projects that are located adjacent to a municipality will be evaluated and scored in the same manner as all other projects, except that such projects may be designed based on development codes of the adjacent municipality, including that municipality's Critical Area Program, if it is intended to be annexed. If the project is endorsed by the municipality, said endorsement shall consist of a letter from and signed by the municipal officials. Endorsement of the project by the municipality and assurance that the entire proposed development site is to be annexed into the adjacent municipality will ensure points are provided. A condition of approval for such projects will be that the site must be incorporated into the adjacent municipality within one year of approval or the GA is subject to re-evaluation and/or recapture. Points = 5

**4. Forest and Woodland Protection (maximum possible points = 10)**

- a. If 40 percent or more of the Critical Area portion of the site is wooded, and less than 15 percent of the existing forest and woodlands are cleared. Points = 1
- b. If 40 percent or more of the Critical Area portion of the site is wooded, and less than 10 percent of the existing forest and woodlands are cleared. Points = 4
- c. Where forest cover exclusive of Buffer Area and existing forest is increased as follows:

<u>Afforestation</u>	<u>Area of Forest Cover increased by:</u>		
	<u>30%</u>	<u>50%</u>	<u>70%</u>
In Critical Area portion of site (Points =)	3	4	5
Entire site above any Afforestation required by Forest Conservation Regulations, and is 5 acres or more (Points =)	4	5	6

**5. Habitat Protection (maximum possible points = 10)**

- a. Where a disturbance of palustrine, non-tidal wetlands or hydrologic regime of non-tidal wetlands, mitigation notwithstanding, is avoided and a minimum buffer provided. Points = 1
- b. Where permanent environmental easements on existing plant, wildlife, and related habitat enhancement areas are donated. Points = 4
- c. Where the following existing Habitat Protection Areas are not present on, or adjacent to, the site: rare, threatened and endangered species, Natural Heritage Areas, and colonial waterbird nesting areas. Points = 2
- d. If the developed portion of the site is located the maximum distance possible from a habitat protection area minimum setback. Points =2
- e. If measures are implemented which enhance the Habitat Protection Areas in the area of the site as recommended by the Cecil County Planning Commission and the Maryland Fish, Heritage, and Wildlife Program. Points = 4
- f. If the project proposes implementation of a forest management program which is designed to protect the habitat values of existing and newly created riparian forests and large forested areas (if the site includes 5 acres or more outside of the Critical Area), and this program is prepared in conjunction with the Cecil County Office of Planning and Zoning and the Maryland Forest, Park and Wildlife Service. Points = 1

**6. Water Quality (maximum possible points = 8)**

- a. RCA to LDA conversion: For impervious surfaces less than 15 percent, points may be assigned as follows:

<u>Impervious surface</u>	<u>Points</u>
15% or less	0
14% or less	1
12% or less	2
10% or less	5
8% or less	8

- b. LDA and RCA conversion to IDA: For impervious surfaces less than 70 percent, points assigned as follows:

<u>Impervious surface</u>	<u>Points</u>
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70% or less	0
60% or less	1
50% or less	2
40% or less	5
30% or less	8

- 7.** Resource Utilization (maximum possible points = 6)
  - a.** Where agriculture or silviculture is continued on the open space portions of the site in the Critical Area and Best Management Practices are used. Points = 3, or
  - b.** Where agriculture or silviculture is continued on the open space portions of the entire site, where the site includes at least 20 acres in agriculture outside the Critical Area and Best Management Practices are used. Points = 6
  
- 8.** Erosion Control (maximum possible points = 3)
  - a.** Where shore erosion protection measures are installed on 50 percent of the remaining shoreline where needed, and use of non-structural shore erosion controls where feasible. Points = 2, or
  - b.** Where shore erosion protection measures are installed on 100 percent of the remaining shoreline, and use of non-structural shore erosion controls where feasible. Points = 3
  
- 9.** Water-Dependent Facilities (maximum possible points = 3)
  - a.** Where community piers are provided. Points = 3, or
  - b.** Where shared piers by less than 3 property owners are provided. Points = 1
  
- 10.** Bonus points, as follows, may be granted if all conditions of the points are fulfilled:
  - a.** Where a proposed development includes community sewer facilities and the developer is able to expand the system to serve existing developed areas of failing septic systems, thereby correcting a documented existing water quality problem. The award of these points will be based on the feasibility of servicing adjacent areas as determined in consultation with the Health Department and the Department of Public Works. Actual points awarded will vary depending on the number of units served, the severity of the problem, and other factors relating to feasibility. A general guideline will be that the correction of all failing septic systems in adjacent areas will earn maximum points. Maximum Bonus Point Value = 30

- b. Where a proposed development project provides free public access to the shoreline in perpetuity. Bonus Points = 10
- c. Where a natural park is designated and approved by the Cecil County Planning Commission, and provisions are made to permit limited access to the natural park for education purposes (e.g., periodically permitting the local school system to conduct field trips to the park), points will be credited. To receive these points, a natural park management plan and program must be developed and include the recommendations of the Maryland Forest, Park, and Wildlife Service. Bonus Points = 10
- d. Placing all remaining viable agricultural lands in the open space portion of the site in a Maryland Agricultural Land Preservation Foundation Program Easement or other program permanently preserving the property from disturbance. Bonus Points = 15

**Section 209. Submission Requirements**

- 1. Subdivision plans, and site plans (Concept, Preliminary, Preliminary-Final, and Final) shall be prepared and submitted consistent with the requirements of Appendix C, Natural Resources Article, Section 8-1808.1(c)(1), Annotated Code of Maryland, and as per other applicable requirements of this ordinance the Subdivision Regulations, the Critical Area Program, and Office of Planning and Zoning policy.
- 2. Requests for Growth Allocation and GA floating zone classification and all required items for submission (as described in 1. above) shall be submitted to the Department of Land Use and Development Services as outlined in the Cecil County Subdivision Regulations, Appendix C of this Ordinance and under Natural Resources Article, Section 8-1808.1(c)(1), Annotated Code of Maryland.
- 3. The Department of Land Use and Development Services shall review the submittal for completeness. The Department of Land Use and Development Services shall solicit comments from other departments, agencies (i.e., the Technical Advisory Committee), and any officials that the Department of Land Use and Development Services may deem appropriate. Incomplete submissions will be returned with comments within (30) days of submission.

**Section 210. Procedure for Review of GA District Applications**

- 1. All grants of the floating zone district by the County Council shall meet the same procedural requirements as amendments to the Critical Area District contained in Section 203.

2. Development projects submitted for GA district classification and Growth Allocation under the point award system shall be processed as follows:

a. Concept Review

- (1) All Concept Plats and Concept Site Plan applications will be reviewed upon submittal and placed on the regular agenda for TAC. The developer shall initially submit a Concept Plat or Concept Site Plan (as required) containing a statement of Concept Scoring assigning points toward the applicable categories and point values the developer believes should be awarded to the proposed project, along with a delineation of the area to be reclassified to the GA district. Requests shall be accompanied by a concept plan and appropriate environmental reports and studies so as to provide sufficient information to permit the Planning Commission to review the application for consistency with the County's Critical Area regulations. The subdivision history of parcels designated as RCA must be provided as part of the growth allocation application. The date of December 1, 1985 is the date used for the original Critical Area mapping and shall be used as a beginning point of analysis. The Technical Advisory Committee (TAC) will review the Concept Plan or Concept Site Plan and provide comments to the developer. Department of Land Use and Development Services staff shall indicate the Concept Scoring of the project and provide their scores and recommendation to the developer at the TAC meeting.
- (2) The Planning Commission shall meet on the Concept Plat or Concept Site Plan submittal at their regular meeting, review the developer's Concept scoring, the Department of Land Use and Development Services staff Concept scoring and score the Concept themselves. They then shall choose to recommend approval, disapproval, conditional approval, tabling, or a continuance to the next regular meeting or determine if a special meeting is necessary.
- (3) The decision to recommend an award of Growth Allocation and reclassification of the site to a GA district will be based on a project point system and the score the particular submittal receives. Projects above the Minimum Tier Scoring Threshold whose design maximizes habitat protection, the enhancement of the water quality objectives of the Cecil County Critical Area Program, and a high quality site design shall be recommended the award of Growth Allocation.
- (4) The Department of Land Use and Development Services staff will review and score the proposed development project and submit its final scoring recommendations to the Planning Commission.

- (5)** The Planning Commission shall hold a public hearing on all submissions which shall include the following:

  - (a)** Presentation of projects by the developers;
  - (b)** Staff review comments and scoring; and
  - (c)** Public comments.
- (6)** The condition of approval received by a particular project shall contain at least the condition that the Critical Area Commission shall recommend approval of the project and the County Council shall grant Growth Allocation and the Floating Zone amendments.
- (7)** The applicant shall address the Planning Commission’s comments and recommendations and may revise the concept plan accordingly. The growth allocation request shall then be forwarded to the County Council with a recommendation for approval or denial from the Planning Commission.

**b. Preliminary Review**

- (1)** If Concept Plat or Concept Site Plan approval or conceptual approval is received, the developer shall submit the revised (as required) Preliminary Plat or Preliminary Site Plan again to the Technical Advisory Committee (TAC) containing a statement of Preliminary Scoring assigning points toward the applicable categories and point values the developer believes should be awarded to the proposed project, along with a delineation of the area to be reclassified to the GA district. The Technical Advisory Committee (TAC) will review the Preliminary Plan or Preliminary Site Plan and provide comments to the developer. The Department of Land Use and Development Services staff shall indicate the Preliminary Scoring of the project and provide their scores and recommendation to the developer at the TAC meeting.
- (2)** The Planning Commission shall hold a public hearing on all submissions which shall include the following:

  - (a)** Presentation of projects by the developers;
  - (b)** Staff review comments and scoring; and
  - (c)** Public comments.



- (3)** The Planning Commission will then score each proposed development project. The projects that meet the Minimum Scoring Threshold at the Preliminary level will be forwarded with a recommendation of conditional approval to the County Council with the Developers, the Office of Planning and Zoning staff, and Planning Commission's scores and recommendations.
- (4)** The County Council shall then hold a public hearing on the request for growth allocation and any revisions to the preliminary submittal unless the developer withdraws the application. The Council shall review the developer's scoring, the Department of Land Use and Development Services staff scoring and the Planning Commission's scoring and recommendations. They then shall choose to recommend conditional approval, disapproval, tabling, or a continuance at the next meeting or a special meeting. Projects above the Minimum Scoring Threshold whose design maximizes habitat protection and the enhancement of the water quality objectives of the Cecil County Critical Area Program, and a high quality site design shall be awarded Growth Allocation.
- (5)** The County Council will forward the proposed amendment(s) of the County Critical Area Program Map (Official Critical Area Maps) and the Preliminary submittal and scoring and conditional assignment of the Growth Allocation (GA) District classification, i.e., projects which received conditional Preliminary approval, to the Critical Area Commission for approval to utilize a portion of their growth allocation. The request shall be accompanied by pertinent documentation as required in Appendix C. A final decision regarding the Critical Area Growth Allocation shall be made by the Critical Area Commission.
- (6)** Upon receipt of the request from the County, the Critical Area Commission shall notify the County regarding the processing of the request as an amendment or refinement to the County's Program. Refinements shall be acted on within 30 days of the Commission's notification to the County of a complete submission. Amendments will be acted on within 130 days of the Commission's notification of a complete submission.
- (7)** Following approval of the growth allocation request by the Critical Area Commission, the County Council may implement the change, and the applicant may proceed to the preparation of the final site plan or subdivision plat for recording in the County land records.

**c.** Final Review and Approval

- (1) If approval is received from the Critical Area Commission regarding a project, the submittals shall proceed through normal approval channels as outlined in this ordinance, the Critical Area Program, and the Cecil County Subdivision Regulations for final plat or site plan approval.
- (2) Prior to approving the final site plan or subdivision plat, the Director of Land Use and Development Services or their designee shall ensure that all conditions of approval are incorporated into the final plan, public works agreement, deed covenants, etc.
- (3) Successful projects granted the GA district classification will be submitted for final site plan or final subdivision approval as per requirements of the Zoning Ordinance and/or Subdivision Regulations.
- (4) The Official Critical Area Map(s) will be amended to reflect the new GA district classification along with a notation of the new land management classification when Final Approval is received. A copy of the new Official Critical Area Map shall be provided to the Critical Area Commission.
- (5) As a condition of approval, the County may require that all projects approved for the use of growth allocation shall demonstrate that they are substantially completed within three years of the date of growth allocation approval by the Commission. Substantially completed shall be determined by the Planning Commission and is defined as projects in which all public improvements such as roads, sewer and/or water facilities, etc. have been built as required by the County.

**Section 211. Special Growth Allocation District (SGA)**

1. Limitations on Approving the SGA District
  - a. The SGA district is limited to the Resource Conservation Areas of the Cecil County Critical Area and may only be used for residential development purposes.
  - b. The County will be limited in the total amount of Growth Allocation which may be permitted under this provision to twenty-two percent of the total growth allocation.
2. Criteria for Granting the SGA district classification

The SGA district classification may not be granted unless:

- a. The number of additional lots is limited as shown in the following Table:

Table Maximum Additional Lots

<u>Critical Area (Acres)</u>	<u>Maximum Number of Additional Lots</u>
Up to 5	0
5 to less than 30	2
30 to less than 100	4*

\* The total number of lots permitted in the development of the Critical Area portion of the site will not exceed 5 lots.

**b.** The maximum lot size shall not exceed the minimum individual lot size required by the Cecil County Health Department.

**c.** The permitted development pad size (permitted area of disturbance) does not exceed 20,000 square feet and provided the remaining lot area remains in natural vegetation under a restrictive conservation easement;

**d.** Full compliance with all other requirements of the Cecil County Critical Area Program for the entire site, including provisions relating to habitat protection and the removal of forest cover for building sites;

**e.** The subdivision complies with all applicable requirements of the Cecil County Subdivision Regulations and this ordinance;

**f.** The applicant demonstrates that a Soil Conservation and Water Quality Plan will be prepared and implemented on all portions of the site which remain in agricultural use, and at a minimum, a cooperators agreement shall be entered into by the landowner;

**g.** The applicant has prepared a Forest Management Plan for those portions of the site which remain in forest cover; and

**h.** The applicant has taken active steps to protect and improve plant and wildlife habitat on the entire site being subdivided.

**3.** All grants of Special Growth Allocation (SGA) floating zone district by the County Council shall meet the same procedural requirements as amendments to the Critical Area District contained in Section 203.

**Section 212. Project Point Scoring System Exemptions of Growth Allocation**

1. To further promote the goals and objectives of the 2010 Comprehensive Plan, certain parcels, sites, or portions of parcels or sites shall be exempted from the County Growth Allocation Point Scoring System to receive Growth Allocation Floating Zones as required above provided:
  - a. The proposed use is commercial, institutional, industrial or recreational and the parcel is located in the Medium Density, Medium High Density, High Density, Residential Mixed Use, Employment Mixed Use, or Employment Land Use Districts of the 2010 Comprehensive Plan;
  - b. The granting of growth allocation would change the land management classification from Limited Development Area (LDA) to Intensely Developed Area (IDA) only; and,
  - c. All other requirements of this Ordinance, the Cecil County Chesapeake Bay Critical Area Program, COMAR 8-1801-1, and the Chesapeake Bay Critical Area Criteria are met.

**Section 213. Procedure for the Granting of Growth Allocation Floating Zones to Project Point Scoring System Exemptions**

1. An application for the granting of Project Point Scoring System Exemption shall be processed as any other proposed amendment to this ordinance, shall follow the procedure outlined in this subsection, and is subject to the approval as a "Program Refinement" of the Cecil County Critical Area Program by the Critical Area Commission.
2. The application shall be in the form of a Sketch Plat detailing all Habitat Protection Areas and all other information as described in Appendix A of this Ordinance.
3. The Sketch Plat shall be reviewed by the Technical Advisory Committee for comments prior to review of the application by the Planning Commission, County Council, and the Critical Area Commission and Growth Allocation will be assigned and deducted from the County's reserve.
4. If the application for a Project Point Scoring System Exemption for a Growth Allocation Floating Zone is approved by the County Council and the Chesapeake Bay Critical Area Commission, the applicant shall submit a major site plan to the Department of Land Use and Development Services for review in accordance with Section 291 of this Ordinance.

5. Project Point Scoring System Exemptions for Growth Allocation Floating Zones shall not proceed with any on site work, grading, or construction until the major site plan is approved by the Department of Land Use and Development Services.
6. A major site plan approved with the use of the Project Point Scoring System Exemptions for a Growth Allocation Floating Zone shall be valid for a period of two (2) years unless construction has begun. If work has not begun, as determined by the Cecil County Department of Land Use and Development Services, all approvals shall be null and void and the Growth Allocation shall be subject to recapture. There shall be no extension of major site plan approvals that use Project Point Scoring System Exemptions for creating a Growth Allocation Floating Zone.

#### **Section 214. Penalties**

1. **Applicability.** The purpose of this chapter is to establish administrative enforcement procedures to identify violations, assess administrative civil penalties, and require abatement, restoration, and mitigation for violations to the County's Critical Area Program. The provisions of this Chapter are in accordance with the Critical Area Act and Criteria, and as set out in any other applicable ordinances and regulations, apply throughout the Critical Area and supersede any inconsistent law, regulation, ordinance or plan of the County. In the case of conflicting provisions, the stricter provisions shall apply.
2. **Compliance officials.** These provisions shall be implemented and enforced by the Chief Code Compliance Officer and Hearing Officer. These officials shall be appointed by the Director of Land Use and Development Services, subject to approval of the County Council.
  - a. The Chief Code Compliance Officer shall enforce, and supervise and delegate enforcement responsibilities of this Ordinance through subordinate Code Compliance Officers. Staff of the Division of Planning & Zoning and staff of the Division of Permits and Inspections shall provide assistance as requested.
  - b. The Hearing Officer shall conduct administrative reviews as set forth in this Chapter, to evaluate the amount of administrative civil penalties in accordance with County regulations. Following an administrative review, the Hearing Officer may decrease, increase, or confirm the amount of the civil penalty. In addition, the Hearing Officer may modify or impose payment terms, conditions, schedules, or other requirements and may suspend all or part of any civil penalty.
  - c. The Chief Code Compliance Officer may notify the Critical Area Commission of any violation and inform the Commission of all actions taken to halt the violation, restore the property, and require appropriate mitigation. The Commission, at its discretion, may also pursue its own remedial action or assist the County as provided for in State law.

- 3. Right to enter property.** Except as otherwise authorized and in accordance with the procedures specified herein, the Department and its designated officials may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Department has probable cause to believe that a violation of this subtitle or the local program has occurred, is occurring, or will occur. A local authority shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, the local authority may seek an injunction to enter the property to pursue an enforcement action.
- 4. Violations.** No person shall violate any provision of this ordinance. Each violation that occurs and each calendar day that a violation continues shall be a separate offense. Each person who violates a provision of this ordinance shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense. Administrative civil penalties for continuing violations shall accrue without a requirement for an additional assessment, notice, or opportunity for hearing for each separate offense.
- 5. Required enforcement action.** If the Department identifies a violation of this subtitle or any provision of the County's Critical Area ordinances or regulations, it shall take enforcement action including:

  - a. Assess administrative civil penalties as necessary to cover the costs associated with local authorities performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
  - b. Issue abatement, restoration, and mitigation orders as necessary to:

    - (1) Stop unauthorized activity;
    - (2) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and
    - (3) Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.
- 6. Responsible persons.** The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.
- 7.** In addition to any other penalty applicable under State or County law, a person who

violates a provision of Natural Resources Article, Title 8, Subtitle 18, the Critical Area Criteria, or the County's Critical Area Program, Ordinance, or Regulations shall be punishable by a civil penalty of up to ten thousand dollars (\$10,000) per calendar day.

- a. Before imposing any civil penalty, the person(s) believed to have violated this ordinance shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Chief Code Compliance Officer shall consider:
  - (1) The gravity of the violation;
  - (2) The presence or absence of good faith of the violator;
  - a. (3) Any willfulness or negligence involved in the violation, including a history of prior violations;
  - (4) The environmental impact of the violation;
  - (5) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the State or local authorities for performing, supervising, or rendering assistance to the restoration and mitigation. When a section of this ordinance establishes a different maximum amount for a civil penalty for any violation, the larger amount shall apply.
- b. Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.
- c. The person responsible for any continuing violation shall promptly provide the Chief Code Compliance Officer with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the County inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the County receives such written notice and verifies compliance by inspection or otherwise.
- d. Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the County of all damages, costs, and other expenses caused by the violation, including the cost to correct any violation or repair,

restore, or replace any County property.

- e. Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Ordinance.

8. **Notice of violations and assessment of administrative civil penalties.** Every notice of violation and assessment of civil penalty shall be in writing and shall include:

1. A description of the facts supporting each alleged violation, including citation of the section of the Zoning Ordinance allegedly violated;
2. Classification of each alleged violation as a continuing or non-continuing violation;
3. Separate assessment of a civil penalty for each violation, and a separate daily assessment for each continuing violation;
4. Notice of the right to request administrative review before the Hearing Officer to evaluate the amount(s) of administrative civil penalties; and
5. Notice of the right to file an appeal to the Board of Appeals.

9. **Collection of administrative civil penalties.** All administrative civil penalties collected in accordance with these provisions shall be deposited in a dedicated "Critical Area Restoration Fund" and used exclusively to conduct or facilitate activities or projects that promote the goals of the Critical Area Program and to ensure its effective implementation within the jurisdiction. These activities may include, but are not limited to the following options:

- a. Design, construction, and operation of stormwater treatment practices;
- b. Retrofits of stormwater treatment practice to improve performance or increase the area from which runoff is being treated;
- c. Removal of structures, roads, paving, etc. that contribute to lot coverage;
- d. Planting and maintenance of riparian forests;
- e. Implementation of landscaping projects that include native trees, shrubs, and herbaceous plants and can be maintained and protected for water quality and habitat enhancement;
- f. Restoration of degraded tidal or non-tidal wetlands that have been disturbed by previous authorized activities and may be accomplished by the removal of fill, restoration or original water circulation patterns, and marsh plantings;
- g. Installation of living shorelines in areas that are actively eroding.



10. **Administrative abatement, restoration, and mitigation orders.** The provisions of this section apply to orders issued by the Code Compliance Officer to a person conducting or having conducted an unauthorized action. Orders shall be sent to the alleged violator by certified mail, return receipt requested, and simultaneously by first-class mail, postage prepaid, bearing a return address. Service shall be effective upon mailing. In addition, any other method of service reasonably calculated to provide actual notice, and any method that does provide actual notice, shall be sufficient, including service by personal delivery to a responsible person at any construction site or posting the order in a conspicuous place on any structure, sign, land, or equipment.
- a. The Chief Code Compliance Officer may issue an administrative abatement order to any person, compelling the person to perform the following:
    - (1) To correct, discontinue, or abate any violation;
    - (2) To cease any activity being performed in violation of this ordinance; and
    - (3) To apply for any permit, approval, special exception, or variance required by this ordinance; however, the filing of an application will not negate or stay the requirement for abatement, restoration, or mitigation measures required by the Chief Code Compliance Officer.
  - b. The Chief Code Compliance Officer may issue a restoration order to any person compelling the person to perform the following:
    - (1) To remove any construction materials, equipment, and any structures or other construction work built or erected in violation of this ordinance;
    - (2) To restore any property to its condition as it existed before any violation of this ordinance;
    - (3) To perform any condition or obligation required by this ordinance or by any permit, approval, special exception, variance, license, contract, deed, or other instrument required or executed pursuant to this ordinance;
  - c. Administrative abatement and restoration orders shall be sent to the alleged violator by certified mail, return receipt requested, and simultaneously by first-class mail, postage prepaid, bearing a return address. Service shall be effective upon mailing. In addition, any other method of service reasonably calculated to provide actual notice, and any method that does provide actual notice, shall be sufficient, including service by personal delivery to a responsible person at any construction site or posting the order in a conspicuous place on any structure, sign, land, or equipment.
  - d. The Chief Code Compliance Officer shall issue a mitigation order to any person receiving notice of or issued a citation for conducting or having conducted an

unauthorized action. Mitigation is required for all violations of the County's Critical Area Program and shall be in addition to any required abatement or restoration activities. In evaluating the type and amount of mitigation, the Department shall consider the severity of the impact on water resources and habitat and the length of time necessary to restore the resources to their condition prior to the violation, or if that is not possible, to recreate or establish and permanently protect similar resources in another location. The mitigation order shall compel the person to perform the following:

- (1) To implement appropriate water quality improvement or habitat enhancement measures that are sufficient to offset adverse impacts to the Critical Area resulting from the violation as follows:
  - (A) Mitigation is required at a three-to-one ratio for the area disturbed or the area of the development activity outside the 110-foot Buffer and expanded Buffer, and
  - (B) Mitigation is required at a four-to-one ratio for the area disturbed or the area of the development activity within the 110-foot Buffer or expanded Buffer;
- (2) To prepare or to have a qualified professional prepare a mitigation plan that includes water quality improvement or habitat enhancement measures to offset adverse impacts to the Critical Area resulting from the violation as specified in Paragraph (a) above; or
- (3) To pay a fee-in-lieu of mitigation that shall be deposited in a dedicated "Critical Area Restoration Fund" and used exclusively to conduct or facilitate activities or projects that promote the goals of the Critical Area Program and to ensure its effective implementation within the jurisdiction.

**11. Contents of administrative abatement, restoration, and mitigation orders.** The provisions of this section apply to orders issued by the Code Compliance Officer(s) to a person conducting or having conducted an unauthorized action. All orders shall include:

- a. A description of each violation, including citation to the applicable County ordinance, regulation, or other requirement allegedly violated;
- b. The time within which any required action is to occur, taking into account the specific action required to comply with the order and any existing or intervening harm or threat to the public health, safety, and welfare. Except for emergencies, which can require compliance as soon as 24 hours or otherwise less than 30 days, there is a rebuttable presumption that compliance with the orders shall take place within 30 days from the date of the order; and
- c. Notice of the right to appeal the order to the Board of Appeals or Hearing Examiner and the period within which any such appeal must be filed.

- 12. Bonding for restoration and mitigation orders.** For abatement or restoration activities and mitigation activities that exceed 1,000 square feet or involve expenses exceeding \$1,000, the Department shall:
- a. Collect a bond or other financial security to ensure that the restoration or mitigation is properly completed;
  - b. Hold a bond for at least two years if the restoration involves planting in order to ensure the survival of the plantings. The two years will run from the date the plantings are installed; and
  - c. Schedule and perform an inspection of the property at the property owner’s request as necessary to ensure compliance and promptly release the bond or other financial security when compliance is confirmed.
- 13. Cumulative remedies.** The remedies available to the County under this ordinance are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.
- 14. Injunctive relief.** The Chief Code Compliance Officer is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this ordinance, an administrative order, a permit, a decision, or other imposed condition.
- a. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the County from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.
  - b. In an action for injunctive relief to enforce an administrative order, the court may also impose a civil fine up to \$10,000 for each day that an administrative order was violated after considering:
    - (1) The willfulness for the violation;
    - (2) The harm to the environment or the community in which the violation occurred; and
    - (3) The cost to the County of enforcing the administrative order.
- 15. Permits pursuant to a violation.** The Department may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:
- a. Fully paid all administrative, civil, or criminal penalties as set forth in subsection 7, above;
  - b. Prepared a restoration or mitigation plan, approved by the Department, to abate impacts to water quality or natural resources as a result of the violation;

- c. Performed the abatement measures in the approved plan in accordance with the local Critical Area regulations; and
  - d. Unless an extension of time is approved by the Department because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.
- 16. Variances pursuant to a violation.** The Department may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle, a regulation adopted under the authority of this subtitle, or any provisions of an order, permit, plan, or local Critical Area ordinance or regulation in accordance with the variance provisions of this ordinance. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Department.
- 17. Non-issuance, non-renewal, suspension, or revocation of a permit.** The Chief Code Compliance Officer may decline to issue or renew, or may suspend or revoke any permit or license issued under the authority of, or required by this ordinance.
- a. Such action may be taken on the following grounds:
    - (1) False, misleading, inaccurate, incomplete, or incorrect information given on any application; or
    - (2) Serious or repeated violations of this ordinance, or any terms, conditions, or restrictions in the permit or license itself.
  - b. The Chief Code Compliance Officer shall give written notice and opportunity to be heard before any non-issuance, non-renewal, suspension, or revocation and shall render a written decision on the matter, which shall be considered an administrative order and may be appealed to the Board of Appeals.
- 18. Enforcement costs.** In any action or proceeding in which the County substantially prevails, the County may recover all costs incurred to enforce the terms of this ordinance, including counsel fees and litigation expenses.
- 19. Appeals.** An appeal to the County Board of Appeals may be filed by any person aggrieved by any order, requirement, decision, or determination by the Chief Code Compliance Officer in connection with the administration and enforcement of this ordinance.
- a. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the County Zoning Ordinance and in accordance with the Board of Appeals Rules of Procedure, accompanied by the appropriate filing fee. Appeals shall be made on form obtained from the Department of Land Use and Development Services. A notice of appeal shall be considered filed with the Board of Appeals when delivered to the Department of Land Use and Development Services.

The date and time of filing shall be entered on the appeal by Department of Land Use and Development Services staff;

- b. An appeal must be filed within 30 days after the date of the decision or order being appealed; and
- c. An appeal stays all actions by the Chief Code Compliance Officer seeking enforcement or compliance with the order or decisions being appealed, unless the Chief Code Compliance Officer certifies to the Board of Appeals that (because of facts stated in the certificate) in his/her opinion, such stay will cause imminent peril to life or property. In such a case, action by the Chief Code Compliance Officer shall not be stayed except by order of the Board of Appeals or a court upon application of the party seeking the stay.

**Section 215. Fee-in-Lieu**

The County shall collect a fee-in-lieu if the Critical Area planting requirements cannot be met.

**1. Buffer Mitigation**

- a. The County shall require \$1.50 per square foot of mitigation required.
- b. Mitigation shall be calculated by square footage in accordance with applicable sections of this Ordinance and COMAR.
- c. Monies collected shall be placed in the County's Buffer Fee Fund, and shall be used in the following manner:
  - (1) To establish the one hundred and ten (110) foot Buffer on sites where planting is not a condition of development or redevelopment;
  - (2) For water quality and habitat enhancement projects, which have been submitted by the County to the Critical Area Commission for review and approval.
- d. The County may authorize use of the fee-in-lieu program only if mitigation cannot be planted in the following order of priority:
  - (1) Onsite within the Buffer;
  - (2) Onsite and adjacent to the Buffer; and
  - (3) Onsite and elsewhere in the Critical Area.

**2. Forest Interior Dwelling Species (FIDS) Mitigation**

- a. A rate as determined by Cecil County Government per square foot shall be assessed for mitigation required.

b. Mitigation shall be calculated by square footage utilizing the Critical Area Commission Publication entitled, *A Guide to Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended.

c. Monies collected shall be placed in the County's FIDS Fee Fund, and shall be used in the following manner:

- (1) Towards establishment of FIDS Conservation Banks in Cecil County in a coordinated effort with Maryland Department of Natural Resources;
- (2) Acquisition of easements for FIDS habitats contiguous to established preserved lands within the Critical Area;
- (3) Acquisition of easements for FIDS habitats that do not meet the acreage threshold to become a FIDS conservation bank;
- (4) Creation of FIDS habitat through FIDS reforestation guidelines provided in the Critical Area Commission Publication entitled, *A Guide to Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended;
- (5) For water quality and habitat enhancement projects, which have been submitted by the County to the Critical Area Commission for review and approval;

d. The County may authorize use of the fee-in-lieu program only if mitigation cannot be planted in the following order of priority:

- (1) On site to create new or expand FIDS habitat;
- (2) Adjacent to project site to create new or expand FIDS habitat;
- (3) Elsewhere in the Critical Area to create new or expand FIDS habitat; and
- (4) Established FIDS mitigation bank in Cecil County.

3. Approved forest and developed woodland clearing mitigation for RCA & LDA development standards.

a. The County shall require a fee rate based on the amount of clearing as adopted by Cecil County Government.

b. Mitigation shall be required identical to required mitigation for forest clearing in Limited Development Areas.

c. Monies collected shall be placed in the County's Critical Area Forest Mitigation Fund, and shall be used in the following manner:

(1) Towards establishment of Critical Area Forest Conservation Banks in Cecil County ;

(2) Towards establishment of FIDS Conservation Banks in Cecil County in a coordinated effort with Maryland Department of Natural Resources;

(3) Creation of new Critical Area Forest through afforestation on sites where planting is not a condition of development or redevelopment;

(4) For water quality and habitat enhancement projects, which have been submitted by the County to the Critical Area Commission for review and approval;

d. The County may authorize use of the fee-in-lieu program only if mitigation cannot be planted in the following order of priority:

(1) On site;

(2) Adjacent to project site;

(3) Elsewhere in the Critical Area; and

(4) Established Critical Area Forest mitigation bank in Cecil County.

## **Part II Mineral Extraction District B - MEB**

### **Section 216. Purpose**

The purpose of the MEB overlay district is to identify areas of the County where mineral extraction may occur by Special Exception.

### **Section 217. Applicability**

1. The MEB overlay designation shall only apply to those areas designated as Mineral Extraction District on the Land Use Plan of the 2010 Cecil County Comprehensive Plan.
2. It is intended that this overlay designation apply to those portions of the Mineral Extraction District where there is a potential for conflict between adjacent current and future land uses and the mineral extraction activity.

### **Section 218. Permitted Uses, Lot, Yard and Height Requirements**

1. Permitted uses, uses permitted with site plan approval, uses permitted under certain conditions, uses permitted by special exception and uses permitted by special exception under certain conditions in the MEB District shall be those as specified for the underlying zone.
2. Lot, yard and height requirements for uses other than mineral extraction shall be those as specified in the underlying zone.

### **Section 219. Review Requirements and Conditions**

Mineral extraction activities shall only be permitted in the MEB overlay zone as a Special Exception when the use can meet review requirements and conditions as listed in Section 67.

### **Section 220. Mineral Extraction in the Chesapeake Bay Critical Area**

Mineral Extraction shall only be permitted in the MEB/Critical Area District as a Special Exception when the use can meet review requirements and conditions as listed in Section 67.

1. **Applicability.** The provisions of this chapter apply to all existing and proposed operations engaged in the extraction or removal of minerals, sand, gravel, rock, stone, earth or fill and activities related to surface mining. These activities include, but are not limited to, operations engaged in processing minerals at the site, removal and mining when done for the purpose of prospecting, washing mined material, and loading and transporting mined material.



2. **General policies.** The County shall assure that all available measures are taken to protect the Critical Area from all sources of pollution from surface mining operations including, but not limited to sedimentation, siltation, chemical and petrochemical use and spillage, and storage and disposal of waste, dusts and spoils. The County shall further assure that surface mining is conducted in a way to permit the reclamation of surface mining sites as soon as possible and to the extent possible.
3. **Mineral Resource Plan and Program.** The County will develop and comply with a Mineral Resource Plan and Program for Management if applicable.
4. **Standards.** Surface mining operation permits are issued by the Maryland Department of the Environment (MDE) and periodic site inspections of permitted areas are made to determine whether the conditions of the permit and the accompanying Reclamation Plan are being fulfilled. Local approvals and related permits for surface mining operations in the County in the Critical Area shall only be granted if the following conditions are met:
  - a. A Reclamation Plan shall be submitted as part of the permit application which specifies the use which is proposed to be made of the site following reclamation, the manner in which that soil and subsoil are to be conserved and restored, the specifications for surface gradient restoration suitable for the subsequent use, the proposed manner and type of re-vegetation or other surface treatment of affected areas and an acceptable schedule to the County for the implementation of reclamation measures. Reclamation is to occur as mining on each segment of a site is completed;
  - b. The operation will not have an unduly adverse effect on wildlife, forests, or fresh water, estuarine or marine fisheries;
  - c. The operator has provided applicable permits from all federal, State and local regulatory agencies responsible for air and water pollution and sediment control; and
  - d. Adequate consideration shall be given to:
    - (1) The effects of the proposed action on the environment, including adverse and beneficial environmental effects that are reasonably likely if the proposal is implemented or if it is not implemented.
    - (2) Measures that might be taken to minimize potential adverse environmental effects and maximize potential beneficial environmental effects, including monitoring maintenance, replacement, operation and other follow-up

activities.

- (3) An applicant's previous experience with similar operations which indicates that the operation will not result in substantial deposits of sediment in stream beds or lakes, landslides, or other causes of water pollution.

**5. Location of future sites.** Presently most of the Resource Conservation Area of the County's Critical Area is zoned for agricultural or conservation use. Proposed new surface mining sites or expanded operations of existing sites shall comply with the following:

- a. New surface mining operations are permitted within the Critical Area provided that identification of appropriate post-excavation uses for this land such as recreation, habitat restoration, open space use, or development are accomplished according to the appropriate land management classification (IDA, LDA or RCA) and other applicable County and State codes and ordinances.
- b. Areas such as the following shall not be used for surface mining:
  - (1) Habitat Protection Areas and other important natural resource areas such as those of scientific value or areas where assemblages of rare species occur;
  - (2) Areas where highly erodible soils exist;
  - (3) Areas where the use of renewable resource lands would result in the substantial loss of long-range (twenty-five (25) years or more) productivity of forest and agriculture, or would result in a degrading of water quality or a loss of vital habitat;
  - (4) Lands that are within one hundred and ten (110) feet of the mean high water line of tidal waters, tidal wetlands, or the edge of streams.
  - (5) In the RCA, lands that are within two hundred (200) feet of the mean high water line of tidal waters, tidal wetlands, or the edge of streams.
- c. Surface mining operations shall operate under the following conditions:
  - (1) Future wash plants including ponds, spoil piles, and equipment may not be located within the Buffer as defined in this ordinance;
  - (2) Existing wash ponds shall be reclaimed as soon as possible after the cessation of a sand and gravel operation;
  - (3) To the fullest extent possible, existing sand and gravel operations shall conduct their extraction activities so as to provide, at a minimum, a one

hundred and ten (110) -foot Buffer (two hundred (200) feet in the RCA) of natural vegetation between the operation and the mean high water line of tidal waters or the edges of streams and tidal wetlands, whichever is further inland.

**Section 221. State and County Coordination**

1. It is the intent of these regulations not to duplicate the review of certain aspects of surface mining applications between state and county agencies. Therefore, the environmental impacts of the proposed surface mining activity, such as effects on ground and surface water, effects on wetlands, and proper post-excavation stabilization shall be reviewed by the applicable state agencies.
2. The issues in 1 above may be considered by the Board of Appeals to review whether or not the environmental impacts of the proposed mineral extraction operation in a particular location are either more or less detrimental than that same mineral extraction operation anywhere else in the MEB district.

**Section 222. Reserved**

**Section 223. Reserved**

### **Part III Floodplain District**

#### **Section 224. General Provisions and Purpose**

1. The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Cecil County. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Structures that are inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contribute to flood losses.
2. Cecil County, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on April 4, 1983. As of that date, or as of April 4, 1983, the initial effective date of the Cecil County Flood Insurance Rate Map, all development and new construction as defined herein, shall comply with these regulations.
3. The Maryland General Assembly, in Article 25A, Section 5(x), General Development Regulations and Zoning (Annotated Code of Maryland), has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by the County in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources.

It is the purpose of this Part to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize flooding of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;
- (E) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (F) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (J) Minimize the impact of development on adjacent properties within and near flood-prone areas;
- (K) Provide that the flood storage and conveyance functions of floodplains are maintained;
- (L) Minimize the impact of development on the natural and beneficial functions of floodplains;

- (M) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (N) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R Section 59.22.

**Section 225. Applicability and Basis for Establishing Special Flood Hazard Areas and Base Flood Elevations**

1. These regulations shall apply to all special flood hazard areas within Cecil County and identified herein.
  - (A) For the purposes of this Part, the minimum basis for establishing special flood hazard areas and base flood elevations is the Flood Insurance Study for Cecil County, Maryland and Incorporated Areas dated July 8, 2013 and May 4, 2015, or the most recent revision thereof, and the accompanying Flood Insurance Rate Maps and all subsequent amendments and revisions to the FIRMs. The FIS and FIRMs are retained on file and available to the public at the Cecil County Office of Planning and Zoning, County Administration Building, Suite 2300, 200 Chesapeake Boulevard, Elkton, Maryland 21921.
  - (B) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard on the FIRM, the area shall be considered a special flood hazard area.
  - (C) To establish base flood elevations in special flood hazard areas that do not have such elevation shown on the FIRM, the Floodplain Administrator may provide the best available data for base flood elevations, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to establish special flood hazard areas and base flood elevations as set forth in Section 228 of this Ordinance.

2. The regulations set forth in this Part are not intended to repeal or abrogate any existing regulations and ordinances including the Subdivision Regulations, the Zoning Ordinance, building codes, or any existing easements, covenants, or deed restriction. In the event of a conflict between or among these regulations and any other ordinance(s), the more restrictive shall govern.
3. In the interpretation and application of these regulations, all provisions shall be:
  - (A) Considered as minimum requirements;
  - (B) Liberally construed in favor of the governing body;
  - (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

Notes referencing publications of the Federal Emergency Management Agency refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the Floodplain Administrator to interpret and apply these regulations.

#### **Section 226. Severability**

Should any section or provision of this Part be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Part as a whole, or any sub-part thereof other than the part so declared to be unconstitutional or invalid.

#### **Section 227. Warning and Disclaimer of Liability**

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage.

These regulations shall not create liability on the part of Cecil County, any officer or employee thereof, the Maryland Department of the Environment (MDE) or the Federal Emergency Management Agency (FEMA), for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

#### **Section 228. Definitions**

In addition to the definitions in Article II, and unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common language

and to give these regulation the most reasonable application. The following definitions pertain specifically to the Flood District:

*Accessory Structure:* A building or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal structure. For the purposes of these regulations, an accessory structure shall be used solely for the parking of vehicles and limited storage.

*Agreement to Submit an Elevation Certificate:* A form on which the application for a permit to construct a building or structure; to construct certain horizontal additions; to place or replace a manufactured home; or to substantially improve a building, structure, or manufactured home, agrees to have an Elevation Certificate prepared by a licensed professional engineer or licensed professional surveyor, as specified by the Floodplain Administrator, and to submit the certificate:

- (1) Upon placement of the lowest floor and prior to further vertical construction; and
- (2) Prior to the final inspection and issuance of the Certificate of Occupancy.

*Alteration of a Watercourse:* For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.

*Area of Shallow Flooding:* A designated Zone AO on the Flood Insurance Rate Map with a one- (1) percent annual chance or greater of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident; such flooding is characterized by ponding or sheet flow.

*Base Building:* The building to which an addition is being added. This term is used in provisions relating to additions.

*Base Flood:* The flood having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the one-percent annual chance (100-year) flood.

*Base Flood Elevation:* The water surface elevation of the base flood in relation to the datum specified in the Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least four (4) feet if the depth number is not specified.

*Basement:* Any area of the building having its floor subgrade (below ground level) on all sides.

*Breakaway Wall:* A wall that is not part of the structural support of a building and is intended to collapse under specific lateral loading forces without causing damage to the supporting foundation system of the building.

*Building Code(s):* The effective Maryland Building Performance Standards (COMAR 05.02.07), including the existing building code and residential code.

*Coastal A Zone:* An area within a special flood hazard area, landward of a coastal high hazard area (V Zone) or landward of a shoreline without a mapped coastal high hazard area, in which the principal source(s) of flooding are astronomical tides and storm surges, and in which, during base flood conditions, the potential exists for breaking waves with heights greater than or equal to 1.5 feet. The inland limit of Coastal A Zone may be delineated on FIRMs as the “Limit of Moderate Wave Action.”

*Coastal High Hazard Area:* An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. Coastal high hazard areas also are referred to as “V Zones” and are designated on FIRMs as zones VE or V1-30.

*Community:* A political subdivision of the State of Maryland that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.

*Critical and Essential Facilities:* Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. [See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

*Declaration of Land Restriction (Nonconversion Agreement):* A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

*Development:* any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Elevation Certificate:* FEMA Form 81-31, on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA.



*Enclosure Below the Lowest Floor:* An unfinished or flood-resistant enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in the regulations. Also see Lowest Floor.

*Federal Emergency Management Agency (FEMA):* The Federal agency with the overall responsibility for administering the National Flood Insurance Program (NFIP).

*Flood or Flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Damage-Resistant Materials:* Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Note: See NFIP Technical Bulletin #2, "Flood Damage-Resistant Materials Requirements."]

*Flood Insurance Rate Map (FIRM):* An official map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRM).

*Flood Insurance Study (FIS):* The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

*Flood Opening:* A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of one (1) square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a licensed professional engineer or licensed architect as meeting certain performance characteristics, including providing automatic entry and exit of flood waters; the certification requirement may be satisfied by an individual certification or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls and Wall of Enclosures."]

*Floodplain:* Any land area susceptible to being inundated by water from any source (see definition of "Flood or Flooding").

*Floodproofing or Floodproofed:* Any combination of structural and nonstructural additions, changes, or adjustments to buildings or structures which reduce or eliminate flood damage to real estate or

improved real property, water and sanitary facilities, structures and their contents, such that the buildings or structures are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. [Note: State regulations at COMAR 26.17.11(B)(7) do not allow new nonresidential buildings in nontidal waters of the State to be floodproofed.]

**Floodproofing Certificate:** FEMA Form 81-65 that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that a building has been designed and constructed to be structurally dry floodproofed to the Flood Protection Elevation. The design of floodproofing and proposed methods of construction shall be in accordance with the applicable requirements of COMAR 26.17.04.11(B)(7).

**Flood Protection Elevation (FPE):** The base flood elevation plus two (2) feet of freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.

**Flood Protection Setback:** A distance measured perpendicular to the top of bank of a watercourse that delineates an area to be left undisturbed to minimize future flood damage and to recognize the potential for bank erosion. Along nontidal waters of the State, the flood protection setback is:

- (1) 100 feet, if the watercourse has special flood hazard areas shown on the FIRM, except where the setback extends beyond the boundary of the flood hazard area; or
- (2) 50 feet, if the watercourse does not have special flood hazard areas shown on the FIRM.

**Floodway:** The channel of a river or other watercourse and the adjacent land and adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. When shown on a FIRM, the floodway is referred to as the “designated floodway.”

**Floodway Fringe:** That portion of the floodplain outside the floodway.

**Flood Zone:** A designation for areas that are shown on Flood Insurance Rate Maps:

- (1) Zone A: Special flood hazard areas subject to inundation by the one (1)-percent annual chance (100-year) flood; base flood elevations are not determined.

(2) Zone AE and Zone A1-30: Special flood hazard areas subject to inundation by the one (1)-percent annual chance (100-year) flood; base flood elevations are determined; floodways may or may not be determined. In areas subject to tidal flooding, the Limit of Moderate Wave Action may or may not be delineated.

(3) Zone AH and Zone AO: Areas of shallow flooding, with flood depths of one (1) to three (3) feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.

(4) Zone B and Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance (500-year) flood; areas subject to the one (1)-percent annual chance (100-year) flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile; and areas protected from the base flood by levees.

(5) Zone C and Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B and X (shaded).

(6) Zone VE and Zone V1-30: Special flood hazard areas subject to inundation by the one (1)-percent annual chance (100-year) flood and subject to high velocity wave action (also see coastal high hazard area).

*Freeboard:* An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.

*Free-of-Obstruction:* A term that describes open foundations (pilings, columns, or piers) without attached elements or foundation components that would obstruct the free passage of floodwaters and waves beneath structures that are elevated on such foundations. [Note: See NFIP Technical Bulletin # 5, "Free-of-Obstruction Requirements."]

*Functionally Dependent Use:* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest Adjacent Grade:* The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

*Historic Structure:* Any structure that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by

the Secretary to qualify as a registered historic district; or

(3) Individually listed on the Maryland Register of Historic Places.

*Hydrologic and Hydraulic Engineering Analyses:* Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Maryland Department of the Environment (Nontidal Wetlands & Waterways) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

*Letter of Map Change (LOMC):* A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study. Letters of Map Change include:

1) *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map (FIRM) and establishes that a specific property or structure is not located in a special flood hazard area.

2) *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the County's floodplain management regulations.

3) *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

*Licensed:* As used in this Article and Part, licensed refers to professionals who are authorized to practice in the State of Maryland by issuance of licenses by the Maryland Board of Architects, the

Maryland Board of Professional Engineers, the Maryland Board of Professional Land Surveyors, and/or the Maryland Real Estate Appraisers and Home Inspectors Commission.

*Lowest Floor:* The lowest floor of the lowest enclosed area (including basement) of a building or structure; the floor of an enclosure below the lowest floor is not the lowest floor provided the enclosure is constructed in accordance with these regulations. The lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

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*Manufactured Home:* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

*Market Value:* The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a licensed real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.

*Maryland Department of the Environment (MDE):* A principal department of the State of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for development and construction that occur within the waters of the State, including nontidal wetlands, nontidal waters and floodplains, and State and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, "MDE" refers to the Department's Wetlands and Waterways Program.

*National Flood Insurance Program (NFIP):* The program authorized by the U.S. Congress in 42 U.S.C. §§4001-4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for development in areas prone to flooding (see definition of "Special Flood Hazard Area").

*NAVD:* North American Vertical Datum of 1988 (NAVD 88). Vertical, or elevation, reference points set by the National Geodetic Survey (NGS) Vertical Network Branch (VNB).

*New Construction:* Structures, including additions and improvements, and the placement of manufactured homes, for which the start of construction commenced on or after the initial effective date of the Cecil County Flood Insurance Rate Map, including any subsequent improvements, alteration, modifications, and additions to such structures.

*NFIP State Coordinator:* See Maryland Department of the Environment (MDE).

*Nontidal Waters of the State:* See *Waters of the State*. As used in these regulations, “nontidal waters of the State” refers to any stream or body of water within the State that is subject to State regulation, including the “100-year frequency floodplain of free-flowing waters.” COMAR 26.17.04 states that “the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environmental Article, §16-301, Annotated Code of Maryland. Therefore, the boundary between the tidal and nontidal waters of the State is the tidal wetlands boundary.

*Person:* An individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

*Recreational Vehicle:* A vehicle that is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Special Flood Hazard Area (SFHA):* The land in the floodplain subject to a one (1)-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency (FEMA) in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are specifically listed or otherwise described in COMAR 26.17.04.03(C).

*Start of Construction:* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure:* That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*Substantial Damage:* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. Also used as “substantially damaged” structures.

*Substantial Improvement:* Any reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

- (1) Any project for improvement of a building or structure to correct existing violations of State or County health, sanitary, or safety code specification which have been identified by the County code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

*Temporary Structure:* A structure installed, used, or erected for a period of less than one hundred eighty (180) days.

*Variance:* A grant of relief from the strict application of one or more requirements of these regulations.

*Violation:* Any construction or development in a special flood hazard area that is being performed without an issued permit. The failure of a building, structure, or other development for which a permit is issued to be fully compliant with these regulation and the conditions of the issued permit. A building, structure, or other development without the required design certifications, the Elevation Certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided.

*Watercourse:* The channel, including channel banks and bed, of nontidal waters of the State.

*Waters of the State:* Waters of the State include:

- (1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- (2) The Chesapeake Bay and its tributaries;
- (3) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of

sanitary sewage; and

- (4) The floodplain of free-flowing waters determined by MDE on the basis of the one hundred (100) year flood frequency. [Note: See COMAR 26.17.04.02.]

*Wetland* : Any land which is: (1) considered private wetland or State wetland pursuant to Title 9, Wetland and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined as wetland under the procedures described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, 1989, as amended.

## **Section 229. Administration and Procedures**

### **1. Designation of the Floodplain Administrator.**

The Director of Land Use and Development Services is designated to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (A) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan reviewers, inspectors, and other employees.
- (B) Enter into a written agreement or written contract with another Maryland community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

### **2. Duties and Responsibilities of the Floodplain Administrator.**

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- (B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.



- (D) Review applications to determine whether all necessary permits have been obtained from the Federal, State, or County agencies from which prior or concurrent approval is required; in particular, permits from MDE or any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing nontidal waters of the State.
- (E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- (F) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resources System Areas (CBRS) or Otherwise Protected Areas (OPA).
- (G) Approve application and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (H) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (I) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- (J) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (K) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
  - (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (L) Enforce the provisions of these regulations, investigate violations, issue notices of

violations or stop work orders, and require permit holders to take corrective action.

- (M) Advise the Board of Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (N) Administer the requirements related to proposed work on existing buildings:
  - (1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
  - (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (O) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information material related to permit requests and repair of damaged structures; coordinating with other Federal, State, and County agencies to assist with substantial damage determination; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (P) Notify the Federal Emergency Management Agency when the corporate boundaries of the County have been modified and:
  - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - (2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.
- (Q) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, the number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

3. Use and Interpretation of FIRMs.

The Floodplain administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- (A) Where field surveyed topography indicates that ground elevations:
  - (1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
  - (2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
- (B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (C) Base flood elevations and designated floodway boundaries on FIRMs and in flood insurance studies shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and flood insurance studies.
- (E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
  - (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
  - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be deemed the best available data pursuant to Section 225 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
  - (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths

in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

4. Permits Required and Expiration.

(A) It shall be unlawful for any person to begin any development or construction which is wholly within, partially within, or in contact with any flood hazard area established in Section 225, including, but not limited to: filling; grading; construction of new structures; the substantial improvement of buildings or structures, including repair of substantial damage; placement or replacement of manufactured homes, including substantial improvement or repair of substantial damage of manufactured homes; erecting or installing a temporary structure, or alteration of a watercourse, until a permit is obtained from the County. No such permit shall be issued until the requirements of these regulations have been met.

(B) In addition to the permits required in paragraph (A), applicants for permits in nontidal waters of the State are advised to contact MDE. Unless waived by MDE, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, MDE regulates the "100-year frequency floodplain of free-flowing waters," also referred to as nontidal waters of the State. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate development of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the special flood hazard areas established in Section 225 of these regulations.

(C) A permit is valid provided the actual start of work is within one hundred eighty (180) days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The Floodplain Administrator may grant, in writing, one or more extensions of time, for additional periods not exceeding ninety (90) days each and provided there has been no amendment or revision to the basis for establishing special flood hazard areas and BFEs set forth in Section 225.

5. Application Required.

Application for a permit shall be made by the owner of the property or the owner's authorized agent (herein referred to as the applicant) prior to the start of any work. The application shall be on a form furnished for the purpose.

(A) Application Contents

(1) Site plan drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.

- (2) Elevation of the existing natural ground where buildings or structures are proposed, referenced to the datum on the FIRM.
- (3) Delineation of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks. Base flood elevations shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on FIRMs.
- (4) Where floodways are not delineated or base flood elevations are not shown on the FIRMs, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from Federal, State, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain Administrator. [Note: See "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations" (FEMA 265).]
- (5) Determination of the base flood elevations, for development proposals and subdivision proposals, each with at least five (5) lots or at least five (5) acres, whichever is the lesser, in special flood hazard areas where base flood elevations are not shown on the FIRM; if hydrologic and hydraulic engineering analyses are submitted, then such analyses shall be performed in accordance with the requirements and specifications of MDE and FEMA.
- (6) Hydrologic and hydraulic engineering analyses for proposals in special flood hazard areas where FEMA has provided base flood elevations but has not delineated a floodway; such analyses shall demonstrate that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one (1) foot or a lower increase if required by MDE.
- (7) For encroachments in floodways, and evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the floodway, and minimization of such encroachment.
- (8) If fill is proposed to be placed for a purpose other than to elevate structures, the applicant shall indicate the intended purpose for the fill.
- (9) For proposed buildings and structures, including substantial improvement and repair of substantial damage, and placement and replacement of manufactured homes, including substantial improvement and repair of substantial damage:
  - (a) The proposed elevation of the lowest floor, including basement, referenced to the datum on the FIRM and a signed Agreement to Submit an Elevation Certificate.

- (b) The signed Declaration of Land Restriction (Nonconversion Agreement) that shall be recorded on the property deed prior to issuance of the Certificate of Occupancy, if the application includes an enclosure below the lowest floor or a crawl/underfloor space that is more than four (4) feet in height.
  - (c) A written evaluation of alternative methods considered to elevate structures and manufactured homes, if the location is in nontidal waters of the State and fill is proposed to achieve the elevation required in Section 231.5 or Section 231.6.
- (10) For accessory structures that are three hundred (300) square feet or larger in area (footprint) that are below the base flood elevation, a Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (11) For temporary structures and temporary storage, specification of the duration of the temporary use.
- (12) For proposed work on existing buildings, structures, and manufactured homes, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement or repair of substantial damage, including but not limited to:
- (a) If the existing building or structure was constructed after April 4, 1983, evidence that the work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.
  - (b) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the base building, if any.
  - (c) Documentation of the market value of the building or structure before the improvement or, if the work is repair of damage, before the damage occurred.
  - (d) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of the work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.
- (13) Certifications and/or technical analyses prepared or conducted by a licensed professional engineer or licensed architect, as appropriate, including:
- (a) The determination of the base flood elevations or hydrologic and hydraulic

engineering analyses prepared by a licensed professional engineer that are required by the Floodplain Administrator or are required by these regulations in: Section 230.2 for certain subdivisions and development; Section 231.4(A) for development in designated floodways; Section 231.4(B) for development in flood hazard areas with base flood elevations but no designated floodways; and Section 231.4(D) for deliberate alteration or relocation of watercourses.

- (b) The Floodproofing Certificate for nonresidential structures that are floodproofed as required in Section 231.4.
  - (c) Certification that engineered flood openings are designed to meet the minimum requirements of Section 231.5 (C) (3) to automatically equalize hydrostatic flood forces.
  - (d) Certification that the proposed elevation, structural design, specifications and plans, and the methods of construction to be used for structures in coastal high hazard areas (V Zones) and Coastal A Zones, are in accordance with accepted standards of practice and meet the requirements of Section 232.3(C).
- (14) For nonresidential structures that are proposed with floodproofing, an operations and maintenance plan as specified in Section 231.6(B)(3).
- (15) Such other material and information as may be requested by the Floodplain Administrator and necessary to determine conformance with these regulations.

(B) New Technical Data

- (1) The applicant may seek a Letter of Map Change by submitting new technical data to FEMA, such as base maps, topography, and engineering analyses to support revision of floodplain and floodway boundaries and/or base flood elevations. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
- (2) If the applicant submits new technical data to support any change in floodplain and designated floodway boundaries and/or base flood elevations but has not sought a Letter of Map Change from FEMA, the applicant shall submit such data to FEMA as soon as practicable, but not later than six (6) months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to FEMA and any fees shall be the sole responsibility of the applicant.

6. Review of Application.

The Floodplain Administrator shall:

- (A) Review applications for development in special flood hazard areas to determine the

completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.

- (B) Notify applicants that permits from MDE and the U.S. Army Corps of Engineers, and/or other State and federal authorities may be required.
- (C) Review all permit applications to assure that all necessary permits have been received from the Federal, State, or County agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:
  - (1) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act;
  - (2) MDE pursuant to COMAR 26.23 (Nontidal Wetlands) and Section 401 of the Clean Water Act;
  - (3) MDE for construction in nontidal waters of the State pursuant to COMAR 26.17.04; and
  - (4) MDE pursuant to COMAR 26.24 (Tidal Wetlands).
- (D) Review applications for compliance with these regulations after all information required in Section 229 of these regulations or identified and required by the Floodplain Administrator has been received.

7. Inspections.

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (A) Stake-out inspection, to determine location on the site relative to the flood hazard area and designated floodway.
- (B) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (C) Inspection of enclosures below the lowest floor, including crawl/underfloor spaces, to determine compliance with applicable provision(s).
- (D) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (E) Final inspection prior to issuance of the Certificate of Occupancy.



8. Submission Required Prior to Final Inspection.

Pursuant to the Agreement to Submit an Elevation Certificate submitted with the application as required in Section 229.5(A), the permittee shall have an Elevation Certificate prepared and submitted prior to final inspection and issuance of the Certificate of Occupancy for elevated structures and manufactured homes, including new structures and manufactured homes, substantially-improved structures and manufactured homes, and additions to structures and manufactured homes.

**Section 230. Requirements in All Flood Hazard Areas**

1. Application of Requirements.

The general requirements of this section apply to all development proposed within all special flood hazard areas identified in Section 225.1.

2. Subdivision Proposals and Development Proposals

(A) In all flood zones:

- (1) Subdivision proposals and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) Subdivision proposals and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) Subdivision proposals and development proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.
- (4) Subdivision proposals and development proposals containing at least five (5) lots or at least five (5) acres, whichever is the lesser, that are wholly or partially in flood hazard areas where base flood elevation data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of base flood elevations as required in Section 229.5(A)(5) of these regulations.
- (5) Subdivision access roads shall have the driving surface at or above the base flood elevation.

(B) In special flood hazard areas of nontidal waters of the State:

- (1) Subdivision proposals shall be laid out such that proposed building pads are located

outside of the special flood hazard area and any portion of platted lots that include land areas that are below the base flood elevation shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.

(2) Subdivision access roads shall have the driving surface at or above the base flood elevation.

**3. Protection of Water Supply and Sanitary Sewage Systems**

(A) New and replacement water supply systems shall be designed to minimize or eliminate infiltrations of floodwaters into the systems.

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.

(C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

**4. Buildings and Structures**

New buildings and structures (including the placement and replacement of manufactured homes) and substantial improvement of existing structures (including manufactured homes) that are located, in whole or in part, in any special flood hazard area shall:

(A) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from flooding equal to the flood protection elevation or the elevation required by these regulations or the building code, whichever is higher.

(B) Be constructed by methods and practices that minimize flood damage.

(C) Use flood damage-resistant materials below the elevation of the lowest floor required in Section 231.6(A) (for A Zones) or Section 232.3(B) (for V Zones and Coastal A Zones).

(D) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor required in Section 231.6(A) (for A Zones) or Section 232.3(B) (for V Zones). Electrical wiring systems are permitted to be located below elevation of the lowest floor provided they conform to the provisions of the electrical part of the building code for wet

locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems and other service equipment shall meet the requirements of this Section.

- (E) As an alternative to paragraph (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems and other service equipment are permitted to be located below the elevation of the lowest floor provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood.
- (F) Have the electric panelboard elevated at least three (3) feet above the BFE.
- (G) Comply with the specific requirements of Section 231 if located in flood hazard areas (A Zones) that are not identified as Coastal A Zones and coastal high hazard areas (V Zones).
- (H) Comply with the specific requirements of Section 232 or Section 231, if applicable, if located in Coastal A Zones.
- (I) Comply with the specific requirements of Section 232.0 if located in coastal high hazard areas (V Zones).
- (J) Comply with the requirements of the most restrictive designation if located on a site that has more than one flood zone designation (A Zone, designated floodway, Coastal A Zone, V Zone).

5. Placement of Fill

- (A) Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
- (B) Fill shall not be placed in Coastal A Zones or coastal high hazard areas (V Zones) except as provided in Section 232.2.
- (C) Fill proposed to be placed to elevate structures in flood hazard areas (A Zones) that are not Coastal A Zones or coastal high hazard areas (V Zones) shall comply with the limitations in Section 231.4 and the requirements of Section 231.5(B).

6. Historic Structures

Repair, alteration, addition, rehabilitation, or other improvement of historic structures shall be subject to the requirements of these regulations if the proposed work is determined to be a substantial improvement, unless a determination is made that the proposed work will not

preclude the structure's continued designation as a historic structure. The Floodplain Administrator may require documentation of a structure's continued eligibility and designation as a historic structure.

**7. Manufactured Homes**

- (A) New manufactured homes shall not be placed or installed in floodways or coastal high hazard areas (V Zones).
- (B) For the purpose of these regulations, the lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (C) New manufactured homes located outside of floodways and coastal high hazard areas (V Zones), replacement manufactured homes in any flood hazard areas, and substantial improvement (including repair of substantial damage) of existing manufactured homes in all flood hazard areas, shall:
  - (1) Be elevated on a permanent, reinforced foundation in accordance with Section 230, 231, or Section 232, as applicable to the flood zone;
  - (2) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications; and
  - (3) Have enclosures below the lowest floor of the elevated manufactured home, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or foundation, that comply with the requirements of Section 230, 231, or 232 as applicable to the flood zone. [Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA 85).]

**8. Recreational Vehicles**

Recreational vehicles shall:

- (A) Meet the requirements for manufactured homes in Section 230.7; or
- (B) Be fully licensed and ready for highway use; or
- (C) Be on a site for less than one hundred eighty (180) consecutive days.

**9. Critical and Essential Facilities**

Critical and essential facilities shall:

- (A)** Not be located in coastal high hazard areas (V Zones).
- (B)** If located in flood hazard areas other than coastal high hazard areas, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the building code, or the elevation of the 0.2 percent chance (500-year) flood.

10. Temporary Structures and Temporary Storage

In addition to the application requirements of Section 229.5, applications for the placement or erection of temporary structures and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. Temporary structures and temporary storage in floodways shall meet the limitations of Section 231.4(A) of these regulations. In addition:

**(A)** Temporary structures shall:

- (1) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the base flood;
- (2) Have electric service installed in compliance with the electric code; and
- (3) Comply with all other requirements of the applicable State and County permit authorities.

**(B)** Temporary storage shall not include hazardous materials.

11. Gas or Liquid Storage Tanks

**(A)** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

**(B)** Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the base flood elevation, or shall be anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

**(C)** In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:

- (1) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

12. Functionally Dependent Uses

Functionally dependent uses shall be approved only by variance issued pursuant to Section 233. If approved, functionally dependent uses shall be protected by methods that minimize flood damage during the base flood, including measures to allow floodwaters to enter and exit, use of flood damage-resistant materials, and elevation of electric service and equipment to the extent practical given the use of the building.

**Section 231. Requirements in Flood Hazard Areas (A Zones) That Are Not Coastal High Hazard Areas or Coastal A Zones**

1. General Requirements. In addition to the general requirements of Section 230, the requirements of this section shall:
  - (A) Apply in flood hazard areas that are not identified as coastal high hazard areas (V Zones) and Coastal A Zones. These flood hazard areas, referred to collectively as "A Zones," include special flood hazard areas along nontidal waters of the State, landward of coastal high hazard areas (V Zones), and landward of Coastal A Zones (if delineated).
  - (B) Apply to all development, new construction, substantial improvements (including repair of substantial damage), and placement, replacement, and substantial improvement (including repair of substantial damage) of manufactured homes.
2. Reserved.
3. Flood Protection Setbacks

Within areas defined by flood protection setbacks along nontidal waters of the State:

- (A) No new buildings, structures, or other development shall be permitted unless the applicant demonstrates that the site cannot be developed without such encroachment into the flood protection setback and the encroachment is the minimum necessary after consideration of varying other siting standards such as side, front, and rear lot line setbacks.
- (B) Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be vegetatively stabilized.
- (C) Public Works and temporary construction permits may be permitted.

#### 4. Development that Affects Flood-Carrying Capacity of Nontidal Waters of the State

##### (A) Development in Designated Floodways

For proposed development that will encroach into a designated floodway, Section 229.5(A)(7) requires the applicant to submit an evaluation of alternative to such encroachment, including different uses of the site or the portion of the site within the floodway, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris.

Proposed development in a designated floodway may be permitted if:

- (1) The applicant has been issued a permit by MDE; and
- (2) The applicant has developed hydrologic and hydraulic engineering analyses and technical data prepared by a licensed professional engineer reflecting such changes, and the analyses, which shall be submitted to the Floodplain Administrator, demonstrate that the proposed activity will not result in any increase in the base flood elevation; or
- (3) If the analyses demonstrate that the proposed activities will result in an increase in the base flood elevation, the applicant has obtained a Conditional Letter of Map Revision or Letter of Map Revision from FEMA. Submittal requirements and fees shall be the responsibility of the applicant.

##### (B) Development that Includes the Placement of Fill in Nontidal Waters of the State

For proposed development that includes the placement of fill in nontidal waters of the State, other than development that is subject to paragraph (D), a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.

(C) Development in Areas with Base Flood Elevations but No Designated Floodways

For development in special flood hazard areas of nontidal waters of the State with base flood elevations but no designated floodways:

- (1) The applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator as required in Section 230.4(A). The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision.
- (2) The proposed development may be permitted if the applicant has received a permit from MDE and if the analyses demonstrate that the cumulative effect of the proposed development, when combined with all other existing and potential flood hazard area encroachments, will not increase the base flood elevation more than one (1.0) foot at any point.

(D) Construction of Roads, Bridges, Culverts, Dams and In-Stream Ponds

Construction of roads, bridges, culverts, dams and in-stream ponds in nontidal waters of the State shall not be approved unless they comply with this section and the applicant has received a permit from MDE.

(E) Alteration of a Watercourse

For any proposed development that involves alteration of a watercourse not subject to paragraph (C), unless waived by MDE, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes, including the floodway analysis required in Section 230.4(A), and submit such technical data to the Floodplain Administrator and FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by MDE and by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and fees shall be the responsibility of the applicant.

Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:

- (1) A description of the extent to which the watercourse will be altered or relocated;
- (2) A certification by a licensed professional engineer that the flood-carrying capacity of the watercourse will not be diminished;
- (3) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and MDE



have been notified of the proposal, and evidence that such notifications have been submitted to FEMA; and

- (4) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the applicant to enter into an agreement with the County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

## 5. Residential Structure and Residential Portions of Mixed Use Structures

New residential structures and residential portions of mixed use structures, and substantial improvement (including repair of substantial damage) of existing residential structures and residential portions of mixed use structures shall comply with the applicable requirements of Section 230 and this Section. See Section 231.7 for requirements for horizontal additions.

### (A) Elevation Requirements

- (1) Lowest floors shall be elevated to or above the flood protection elevation.
- (2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus two (2) feet, or at least four (4) feet if a depth number is not specified.
- (3) Enclosures below the lowest floor shall meet the requirements of paragraph (C).

### (B) Limitations on Use of Fill to Elevate Structures

Unless otherwise restricted by these regulations, especially by the limitation in Section 231.4(A), Section 231.4(B), and Section 231.4(C), fill placed for the purpose of raising the ground level to support a building or structure shall:

- (1) Consist of earthen soil or rock materials only;
- (2) Extend laterally from the building footprint to provide for adequate access as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services;
- (3) Comply with the requirements of the building code and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;

- (4) Be sloped no steeper than one (1) vertical and two (2) horizontal, unless approved by the Floodplain Administrator;
- (5) Be protected from erosion associated with expected velocities during the occurrence of the base flood; unless approved by the Floodplain Administrator, fill slopes shall be protected by vegetation if the expected velocity is less than five (5) feet per second, and by other means if the expected velocity is five (5) feet per second or more; and
- (6) Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.

(C) Enclosures Below the Lowest Floor

- (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.
- (2) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials.
- (3) Enclosures below the lowest floor shall be provided with flood openings which shall meet the following criteria: [Note: See NFIP Technical Bulletin #1, "Openings in Foundation Walls of Enclosures Below Elevated Buildings."]
  - (a) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
  - (b) The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an evaluation report issued by the ICC Evaluation Service, Inc.
  - (c) The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
  - (d) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwater into and out of the enclosed area.
  - (e) If installed in doors, flood openings that meet requirements of paragraph (a) though (d), are acceptable; however, doors without installed flood openings do not meet the requirements of this section.

## 6. Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

New nonresidential structures and nonresidential portions of mixed use structures, and substantial improvement (including repair of substantial damage) of existing nonresidential structures and nonresidential portions of mixed use structures shall comply with the applicable requirements of Section 230 and the requirements of this Section. See Section 231.7 for requirements for horizontal additions.

### (A) Elevation Requirements

Elevated structures shall:

- (1) Have the lowest floor (including basement) elevated to or above the flood protection elevation; or
- (2) In areas of shallow flooding (Zone AO), have the lowest floor (including basement) elevated to at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM plus two (2) feet, or at least four (4) feet if a depth number is not specified; and
- (3) Have enclosures below the lowest floor, if any, that comply with the requirements of Section 231.5(C); or
- (4) If proposed to be elevated on fill, meet the limitations on fill in Section 231.5(B).

### (B) Floodproofing Requirements

- (1) Floodproofing of new residential buildings:
  - (a) Is not allowed in nontidal waters of the State (COMAR 26.17.04.11(B)).
  - (b) Is not allowed in Coastal A Zones.
- (2) Floodproofing for substantial improvement of nonresidential buildings:
  - (a) Is allowed in nontidal waters of the State.
  - (b) Is allowed in Coastal A Zones.
- (3) If floodproofing is proposed, then structures shall:
  - (a) Be designed to be dry floodproofed such that the building or structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the flood protection elevation plus one (1.0) foot; or

- (b) If located in an area of shallow flooding (Zone AO), be dry floodproofed at least as high as above the highest adjacent grade as the depth number specified on the FIRM plus three (3) feet, or at least five (5) feet if a depth number is not specified; and
- (c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (d) Have floodproofing measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of flooding; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least twelve (12) hours of flood warning time from a credible source; and time necessary to implement any measures that require human intervention;
- (e) Have at least one door above the applicable flood elevation that allows human ingress and egress during conditions of flooding;
- (f) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
- (g) Be certified by a licensed professional engineer or licensed architect, through execution of a Floodproofing Certificate that states that the design and methods of construction meet the requirements of this section. The Floodproofing Certificate shall be submitted with the construction drawings as required in Section 229.5(A)(13).

## 7. Horizontal Additions

- (A) A horizontal addition proposed for a building or structure that was constructed after the date Specified in Section 224.1 shall comply with the applicable requirements of Section 230 and this Section.
- (B) In nontidal waters of the State that are subject to the regulatory authority of MDE, all horizontal additions shall comply with the applicable requirements of Section 230 and this Section and:
  - (1) If the addition is structurally connected to the base building, then the requirements of paragraph (C) shall apply.
  - (2) If the addition has an independent foundation and is not structurally connected to the base building and the common wall with the base building is modified by no more than a doorway, the base building is not required to be brought into

compliance.

(C) For horizontal additions that are structurally connected to the base building:

- (1) If the addition combined with other proposed repairs, alterations, or modifications of the base building constitutes substantial improvement, the base building and the addition shall comply with the applicable requirements of Section 230 and this Section.
- (2) If the addition constitutes substantial improvement, the base building and the addition shall comply with all of the applicable requirements of Section 230 and this Section.

(D) For horizontal additions with independent foundations that are not structurally connected to the base building and the common wall with the base building is modified by no more than a doorway, the base building is not required to be brought into compliance.

## 8. Accessory Structures

(A) Accessory structures shall be limited to:

- (1) No more than six hundred (600) square feet in floor area; and
- (2) A cost of less than fifty (50) percent of the market value of the building or structure before the start of construction of the improvement.

(B) Accessory structures shall comply with the elevation requirements and other requirements of Section 231.5, the floodproofing requirements of Section 231.6(B), or shall:

- (1) Be useable only for parking of vehicles or limited storage;
- (2) Be constructed with flood damage-resistant materials below the base flood elevation;
- (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
- (4) Be anchored to prevent flotation;
- (5) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
- (6) Have flood openings that meet the requirements of Section 231.5(C).

## **Section 232. Requirements in Coastal High Hazard Areas (V Zones) and Coastal A Zones**

### **1. General Requirements**

In addition to the requirements of Section 230, the requirements of this section apply to all new construction; substantial improvements (including repair of substantial damage) of manufactured homes, and other development proposed in coastal high hazard areas (V Zones) and new construction and the placement of new manufactured homes in Coastal A Zones. See Section 232.4 for requirements for horizontal additions. [Note: See Coastal Construction Manual (FEMA 55).]

### **2. Location and Site Preparation**

(A) The placement of structural fill for the purpose of elevating buildings is prohibited.

(B) Buildings shall be located landward of the reach of mean high tide.

(C) Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool deck, patios and walkways.

(D) Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the potential for flood damage is not increased.

### **3. Residential and Nonresidential Structures**

New structures and substantial improvement (including repair of substantial damage) of existing structures shall comply with the applicable requirements of Section 230 and the requirements of this section.

#### **(A) Foundations**

(1) Structures shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable building codes. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.

(2) Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of structures and their foundations to prevent transfer of flood loads to the structures during conditions of flooding, scour, or erosion from wave-velocity flow conditions, and shall be designed to minimize debris impacts to

adjacent properties and public infrastructure.

(B) Elevation Requirements

- (1) The bottom of the lowest horizontal structural member that supports the lowest floor shall be located at or above the flood protection elevation.
- (2) Basement floors that are below grade on all sides are prohibited.
- (3) The space below an elevated building shall either be free-of-obstruction or, if enclosed by walls, shall meet the requirements of paragraph (D). [Note: See NFIP Technical Bulletin #5, "Free-of-Obstruction Requirements."]

(C) Certification of Design

As required in Section 229.5(A)(13), the applicant shall include in the application a certification prepared by a licensed professional engineer or a licensed architect that the design and methods of construction to be used meet the requirements of paragraph (A), paragraph (B), paragraph (D), and the building code.

(D) Enclosures Below the Lowest Floor

- (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access or limited storage.
- (2) Enclosures below the lowest floor shall be less than two hundred ninety-nine (299) square feet in area (exterior measurement).
- (3) Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are designed to break away under flood loads and are not part of the structural support of the building or structure. [Note: See NFIP Technical Bulletin #9, "Design and Construction Guidance for Breakaway Walls."]
- (4) Electrical, mechanical, and plumbing system components shall not be mounted on or penetrate through walls that are designed to break away under flood loads.
- (5) Walls intended to break away under flood loads shall be constructed with insect screening or open lattice, or shall be designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than ten (10) pounds per square foot and no more than twenty (20) pounds per square foot; or
- (6) Where wind loading values of the building code exceed twenty (20) pounds per square foot, the applicant shall submit a certification prepared by a licensed

professional engineer or a licensed architect that:

- (a) The walls and partitions below the lowest floor have been designed to collapse from a water load less than that which would occur during the base flood.
- (b) The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood; wind loading values used shall be those required by the building code.
- (c) In Coastal A Zones, in addition to the requirements of this Section, walls below the lowest floor shall have flood openings that meet the requirements of Section 231.5.(C)(3).

4. Horizontal Additions

- (A) A horizontal addition proposed for a building or structure that was constructed after the date specified in Section 224.1 shall comply with the applicable requirements of Section 230 and this Section.
- (B) For horizontal additions, whether structurally connected or not structurally connected, to the base building:
  - (1) If the addition combined with other proposed repairs, alterations, or modifications of the base building constitutes substantial improvement, the base building and the addition shall comply with the applicable requirements of Section 230 and this Section.
  - (2) If the addition constitutes substantial improvement, the base building and the addition shall comply with all of the applicable requirements of Section 230 and this Section. [Note: The base building is required to comply; otherwise it is an obstruction that does not comply with the free-of-obstruction requirement that applies to the elevated addition, see Section 232.3.(B)(3).

5. Accessory Structures

- (A) Accessory structures shall be limited to no more than three hundred square feet in total floor area.
- (B) Accessory structures shall comply with the elevation requirements and other



requirements of Section 232.3, or, if not elevated, shall:

- (1) Be useable only for parking of vehicles or limited storage;
- (2) Be constructed with flood damage-resistant materials below the base flood elevation;
- (3) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
- (4) Be anchored to prevent flotation;
- (5) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
- (6) If larger than one hundred (100) square feet in size, have walls that meet the requirements of Section 232.3(D)(3) through (6), as applicable for the flood zone; and if located Coastal A Zones, walls shall have flood openings that meet the requirements of Section 231.5(C)(3).

6. Other Structures and Development

[Note: See NFIP Technical Bulletin # 5, "Free-of-Obstruction Requirements."]

(A) Decks and Patios

In addition to the requirements of the building code, in the coastal high hazard areas (V Zones), decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the flood protection elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the flood protection elevation shall be structurally independent from structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during base flood conditions or to break apart into small pieces that will not cause structural damage to adjacent elevated structures.
- (3) A deck or patio that has vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill that is necessary for site drainage shall not be approved unless an analysis demonstrates no harmful

diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated structures.

- (4) A deck or patio that has vertical thickness of twelve (12) inches or less and that is at natural grade or on fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(B) Other Development

Other development activities shall be permitted only if located outside the footprint of, and not structurally attached to, structures, and only if an analysis demonstrates no harmful diversion of floodwaters or wave runup and wave reflection onto adjacent elevated structures. Other development includes but is not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under base flood conditions; and
- (3) Mounded septic systems.

**Section 233. Variances**

1. General

**A.** The Cecil County Board of Appeals shall have the power to consider and authorize or deny variances from the strict application of the requirements of these regulations. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, would result in an unwarranted hardship to the property owner.

**B.** Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Board of Appeals may attach conditions to variances as it deems necessary to further the purposes of these regulations.

**C.** The Board of Appeals shall notify, in writing, any applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest floor below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be

commensurate with the increased risk, with rates up to twenty-five dollars (\$25) per one hundred dollars (\$100) of insurance coverage.

**D.** A record of all variance actions, including justification for issuance shall be maintained pursuant to Section 229.2(K) of this Ordinance.

2. Application for a Variance

(A) The owner of property, or the owner's authorized agent, for which a variance is sought shall submit an application for a variance to the Department of Land Use and Development Services.

(B) At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks; description of the variance sought; and reason for the variance request. Variance applications shall specifically address each of the consideration set forth in §233.3.

(C) If the application is for a variance to allow the lowest floor (A Zones) or bottom of the lowest horizontal structure member (V Zones and Coastal A Zones) of a building or structure below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the variance shall be recorded on the deed of the property.

3. Consideration for Variances

The Department of Land Use and Development Services shall request comments on variance applications from MDE (NFIP State Coordinator) and shall provide such comments to the Board of Appeals.

In considering variance applications, the Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

(A) The danger that materials may be swept onto other lands to the injury of others.

(B) The danger to life and property due to flooding or erosion damage.

- (C) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (D) The importance of the services to the community provided by the proposed development.
- (E) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (G) The compatibility of the proposed use with existing and anticipated development.
- (H) The relationship of the proposed use to the current Comprehensive Plan.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

2. Limitations for Granting Variances

The Board of Appeals shall make an affirmative decision on a variance request only upon:

- (A) A showing of good and sufficient cause.
- (B) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
- (D) A determination that the granting of a variance will not result in additional threats to

public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.

- (E) A determination that the building, structure or other development is protected by methods to minimize flood damages.
- (F) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

**Section 234. Fees**

Fees may be charged at the time of application. These fees shall be established by the County Executive of Cecil County, and are subject to amendment from time to time.

**Section 235. Enforcement**

1. Compliance Required

- (A) No building, structure or development shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
- (B) Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in accordance with Sections 235.3 and 340 of this Ordinance.
- (C) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations.

2. Notice of Violation and Stop Work Order

If the Floodplain Administrator determines that there has been a violation of any provision of these regulations, the Floodplain Administrator shall give notice of such violation to the owner, the owner's authorized agent, and/or the person responsible for such violation, and may issue a stop work order. The notice of violation or stop work order shall be in writing and shall:

- (A) Include a list of violations, referring to the section or sections of these regulation that have been violated;
- (B) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;

- (C) Specify a reasonable period of time to correct the violation;
- (D) Advise the recipients of the right to appeal; and
- (E) Be served in person; or
- (F) Be posted in a conspicuous place in or on the property; or
- (G) Be sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

3. Violations and Penalties

Violations of these regulations or failure to comply with the requirements of these regulations or any conditions attached to a permit or variance shall constitute a misdemeanor. Any person responsible for a violation shall comply with the notice of violation or stop work order. Failure to comply shall be punishable by penalties per Section 340 of this Ordinance. Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 236. Subsequent Amendments**

All ordinances or parts of ordinances that are inconsistent with the provisions of Article XI, Part III are hereby repealed to the extent of such inconsistency. Article XI, Part III shall be amended as required by the Federal Emergency Management Agency, 44 Code of Federal Regulations. All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

**Section 237. Reserved**

**Section 239. Reserved**

**Section 240. Reserved**

**Section 241. Reserved**

**Section 242. Reserved**

**Section 243. Reserved**

**Section 244. Reserved**

## **Part IV Historic District**

### **Section 245.**

#### **1. Purpose**

It is the purpose of this Part to establish regulations and procedures necessary to preserve historic districts, landmarks, sites, or structures of historical, archeological, or architectural significance, with their appurtenances and environmental settings, for the public welfare of the residents of Cecil County, hereinafter referred to as “the County”. Furthermore, the purpose of the Part shall be to:

- a. Safeguard the heritage of the County by preserving landmarks, sites, structures, or districts which reflect elements of cultural, social, economic, political, archeological, or architectural history;
- b. Implement the goals and objects of the Cecil County Historic Preservation Plan;
- c. Stabilize and improve property values of the County’s historic landmarks, sites, structures, or districts;
- d. Foster civic pride in the beauty and accomplishments of the County;
- e. Promote the preservation, use, and appreciation of historic landmarks, sites, structures or districts for the education and welfare of the residents of the County; and
- f. Protect and enhance the County’s historic landmarks, sites, structures, or districts as attractions for residents, tourists and visitors alike, which shall serve as a support and stimulus to business and industry.

#### **2. Authority to Establish**

This Part is enacted under the authority granted to Cecil County Government, by the General Assembly of Maryland, as provided in Article 66B, Annotated Code of Maryland, Sections 8.01-8.17, as amended.

#### **3. Definitions**

*Alteration:* any exterior change that would affect the historic, archeological, or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way, including, but not limited to construction, reconstruction, restoration, removal, moving, or demolition.

*Appurtenances and Environmental Settings:* all of the space of grounds and structures thereon which surrounds a designated site or structure and to which it relates physically or visually. Appurtenances and Environmental Settings shall include, but are not limited to, walkways and driveways (whether paved or unpaved), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks,

and public spaces.

*Certificate of Appropriateness:* a certificate issued by the Historic District Commission indicating its approval of plans for construction, alteration, reconstruction, moving or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated preservation district.

*Demolition by Neglect:* any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated district, not including appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:

- a. The deterioration of the foundation, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
- b. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing which will or could result in permanent damage, injury, or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

*Designation:* action by the County Council to create an official landmark or historic district that demonstrates historic, archeological, or architectural significance in conformance with Subsection 6 of the Part.

*Exterior Features:* the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs, or similar items found on or related to the exterior of a historic structure.

*Historic District:* a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development. A "historic district" shall include all property within its boundaries as defined and designated by the County Council.

*Historic Area Work Permit:* a permit issued by the Cecil County Department of Permits and Inspections upon receiving a "Certificate of Appropriateness" from the Historic District Commission for all projects that the County conducts, assists, licenses, or permits that affect properties within a designated historic district or individually designated landmarks, sites or structures.

*Landmark:* any designated site, structure, or object that is of exceptional historic, archeological, or architectural significance.

*Nomination:* application to the Historic District Commission by a landowner proposing their property for designation as a landmark or historic district under the terms of this Part.



*Ordinary Maintenance:* work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archeological, or architectural significance of the historic site or structure. This definition of ordinary maintenance applies, whenever appropriate, to the appurtenances and environmental setting of the property, as well as the building, structure or object itself.

Specific items to be considered as ordinary maintenance include:

- a. Repair or replacement of roofs, gutters, siding, external doors and windows, trim, lights, and other appurtenant fixtures with like materials of like design.
- b. Landscaping
- c. Paving using like materials of like design.
- d. Repainting of surfaces using the same or substantially the same color.

*Reconstruction:* the process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.

*Restoration:* the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.

*Site:* the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance.

*Structure:* a combination of material to form a construction that is stable, including among other things, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences and display signs visible or intended to be visible from the public way.

#### **4. Establishment of Historic District Commission**

- a. A Historic District Commission is hereby established which shall have a membership of seven (7) persons, all of whom shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, historic preservation, landscape architecture, urban design or related disciplines. All of the Historic District Commission members shall be residents of Cecil County. The County Executive shall appoint members for terms of three (3) years. Members of the Historic District Commission are eligible for re-appointment for three (3) year terms. Any vacancy of the Historic District Commission shall be filled by the County Executive for the unexpired term. The Historic District Commission shall organize annually and, by election, shall select from its members a chairperson and vice-chairperson.

- b. Four (4) members of the Historic District Commission shall constitute a quorum for the transaction of business, and a majority vote of the members present shall control the action of the Commission.
- c. Members of the Historic District Commission may, after written notice of the charges and a public hearing before the County Council, be removed by the County Executive for inefficiency, neglect of duty, malfeasance in office, or other cause.
- d. Members of the Historic District Commission shall serve without compensation.
- e. The Historic District Commission shall hold such regular meetings and hearings as necessary to discharge its duties and shall hold special meetings at the call of the Chairperson of any four (4) members of the Commission. The Historic District Commission shall keep official records of its resolutions, proceedings, and actions.

**5. Powers and Duties of the Historic District Commission**

The Historic District Commission shall have the following powers and duties:

- a. To adopt its own procedural regulations pursuant to this Part;
- b. Upon receipt of a nomination by the owner(s) of record of a property, recommend to the County Council that properties, structures, or sites found to have historic, archeological, or architectural significance be designated as a historic district or landmark;
- c. To recommend to the County Council that a historic district, site or landmark designation be rescinded or amended;
- d. To conduct an ongoing survey to identify historically and architecturally significant sites, properties, structures and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state and county;
- e. To keep a register of all properties, sites and structures that have been designated as landmarks or historic districts, including all information for required for each designation;
- f. To determine an appropriate system of markers and make recommendation for the design and implementation of specific markings of the street and routes leading from one site, landmark, or historic district to another. To confer recognition upon the owners of landmarks, sites or property or structures within historic districts by means of certificates, plaques or markers;
- g. To advise and assist owners of landmarks, sites, historic properties or structures within historic districts on physical and financial aspects of preservation, reconstruction, restoration, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;

- h. With the written permission of the property owner(s), nominate landmarks, sites, and historic districts to the National Register of Historic Places and to review and comment on any National Register nominations submitted to the Commission for review;
- i. To inform and educate the citizens of the County concerning the historic and architectural heritage of the County.
- j. To hold public hearings and to review applications for construction, reconstruction, restoration, alteration, removal or demolition affecting designated landmarks, sites, or structures within historic districts and issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
- k. To consider applications for economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied;
- l. To adopt specific guidelines for the construction, reconstruction, restoration, alteration, removal or demolition of landmarks or property and structures within historic districts;
- m. To call upon the staff of the Department of Land Use and Development Services, as well as other experts, for technical advice;
- n. To periodically review the County Zoning Ordinance and to recommend to the Department of Land Use and Development Services any amendments appropriate for the protection and continued use of landmarks, sites or property or structures within historic districts.
- o. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this section;
- p. To recommend to the County Executive the acceptance of any grant, loan or aid, in any form, from federal, state or private sources on behalf of the County;
- q. As deemed appropriate, designate the Maryland Historical Trust to make an analysis of and recommendations for the preservation of structures of historic and architectural value within the County; and
- r. To recommend that the County Executive accept architectural easements in connection with structures located within Historic Districts. Such easements shall grant the County Government, the residents of historic districts, and the general public, the perpetual right to have the exterior appearance

of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

**6. Procedure for Designation of Historic Districts**

- a. Upon receipt of the written permission of the property owner(s), the County Council may designate historic landmarks, sites, and the boundaries of districts of historical, archeological, or architectural significance consistent with the criteria contained herein.
- b. Nominations shall be made to the Historic District Commission by the owner(s) of record of the nominated property.
- c. The Historic District Commission shall send a recommendation to the County Council for approval or disapproval as a designated landmark, site, structure, or district of historic, archeological, or architectural significance. In making this determination, the Historic District Commission may consider, but is not limited to, the following factors:
  1. Historical or Archeological
    - (a) It has character, interest, or value as part of the development or cultural characteristics of the community, county, state or nation;
    - (b) It has location as a site of a significant local, county, state or national event; and/or
    - (c) It has been identified with a person or persons who significantly contributed to the development of the county, state, or nation.
  2. Architectural
    - (a) It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials;
    - (b) It has been identified as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the county, state or nation;
    - (c) It embodies elements of design, detailing, materials or craftsmanship that render it architecturally significant;
    - (d) It embodies design elements that make it structurally or architecturally innovative;
    - (e) It has a unique location or singular physical characteristics that make it an established or familiar visual feature; and/or

- (f) It has character as a particularly fine or unique example of a utilitarian structure, with a high level of integrity or architectural significance.
- d. Any structure, property, site or area that meets the criteria listed above shall also have sufficient integrity of location, setting, design materials and workmanship to make it worthy of preservation or restoration.
- e. The Historic District Commission shall, upon receipt of a completed nomination in property form, determine that the nominated landmark, site, or historic district does or does not meet the criteria for designation.
- f. The determination shall be accompanied by a report to the Director of Planning and Zoning containing the following information:
  - 1. An explanation of the significance or lack thereof of the nominated landmark or historic district as it relates to the criteria for designation;
  - 2. An explanation of the integrity or lack thereof of the nominated landmark, site or historic district;
  - 3. In the case of a landmark found to meet the criteria for designation:
    - (a) The significant exterior features of the nominated landmark that should be protected; and
    - (b) The types of construction, reconstruction, restoration, alteration, demolition, and removal other than those requiring a building or demolition permit, that should be reviewed for appropriateness.
  - 4. In the case of a nominated historic district found to meet the criteria for designation:
    - (a) The types of significant exterior features of the structures within the nominated historic district that should be protected; and
    - (b) The types of alterations and demolitions that should be reviewed for appropriateness.
  - 5. Proposed design guidelines for applying the criteria for review of certificates of appropriateness to the nominated landmark or historic district.
  - 6. The relationship of the nominated landmark, site or historic district to the ongoing effort of the Historic District Commission to identify and nominate, with the property owner's written permission. All potential areas and structures that meet the criteria for designation;

7. All landmarks, appurtenances and environmental settings appropriate to ensure preservation of character and historical integrity;
  8. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulation and parking regulations necessary or appropriate to the preservation of the nominated landmark, site or historic district; and
  9. A map showing the location and boundaries of the nominated landmark, site, or historic district.
- g. The recommendation of the Historic District Commission shall be sent to the Department of Land Use and Development Services, and
  - h. The Department of Land Use and Development Services shall forward the recommendation of the Historic District Commission to the Planning Commission for a recommendation. The Department of Land Use and Development Services shall forward the recommendations of the Historic District Commission and the Planning Commission to the County Council for approval or disapproval.

**7. Notice**

- a. The Department of Land Use and Development Services shall notify the Historic District Commission of the nomination upon receipt of the nomination from the property owner(s).
- b. The following notice shall be given prior to the date of the public hearing on the nomination.
  1. Notice of the date, time, place and purpose of the public hearing and a copy of the nomination shall be sent by mail to the owner(s) of record, as well as to the property owners adjoining the nominated landmark or historic district, at least fifteen (15) days prior to the hearing;
  2. Notice shall also be published in the newspaper of general circulation in the county at least fifteen (15) days prior to the hearing;
  3. The notice shall state the street address, property owner(s), and the boundaries of the nominated historic district.
- c. Upon designation by the County Council, the landmark, site, or historic district shall be classified by the County Council as a Historic District or Landmark. As appropriate, the record of the County Council's decision to designate a historic district, site or landmark shall describe the significant exterior architectural features; the types of construction, alteration, demolition, and removal other than those requiring a building or demolition permit, that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses;

special uses; height and area regulations; minimum dwelling size; floor area; sign regulations; and parking regulations. The official zoning map for Cecil County shall be amended to show the boundaries of the Historic District or Landmark.

#### **8. Amending and Rescinding Designation**

In accordance with Section 5 of this Part, a designation may be amended or rescinded upon petition to the Historic District Commission in compliance with the same procedure and according to the same criteria set forth herein for designation. The burden of proof is on the property owner to demonstrate that there is a justification for rescinding the designation.

#### **9. Certificate of Appropriateness**

A certificate of appropriateness shall be required from the Historic District Commission before the following actions affecting the exterior features of any landmark, site or property within a historic district, any portion of which is visible from a public way, may be undertaken:

- a. Any construction, reconstruction, restoration, alteration or removal requiring a building permit from the Division of Permits and Inspections;
- b. Any demolition, in which whole or in part requiring a permit from the Division of Permits and Inspections; and
- c. Any construction, reconstruction, restoration, alteration, demolition, or removal affecting a significant exterior feature as specified in the record of designation for the landmark or historic district.

#### **10. Design Guidelines**

Design guidelines for applying the criteria for review of certificates of appropriateness shall adhere to the United States Secretary of Interior's standards for historic preservation projects.

#### **11. Applications**

Every applicant for a demolition permit or a building permit within a designated historic district, hereinafter referred to as "historic area work permit", including the accompanying plans and specifications, affecting the exterior features of a designated landmark or the significant historic qualities of a property or site within a designated historic district shall be forwarded by the Department of Land Use and Development Services to the Historic District Commission. The Department of Land Use and Development Services shall not issue the historic area work permit until a certificate of appropriateness has been issued by the Historic District Commission before the application is sent by the Department of Land Use and Development Services to the Historic District Commission or during review of the application. Applications for review of construction, reconstruction, restoration, alteration, demolition or removal, not requiring a building permit for which a certificate of appropriateness is required, shall be made on a form prepared by the Historic District Commission and available in the Department of Land Use and Development Services. The Historic District Commission shall consider the completed application at its next regular meeting. A

certificate of appropriateness may be issued upon the signature of four (4) members of the Historic District Commission.

**12. Standards for Review**

The Historic District Commission shall be strict in its judgment of plans for those structures or landmarks deemed to be valuable for historic, archeological, or architectural reasons. The Historic District Commission shall be lenient in its judgment of plans for structures of little historical value or for plans involving new construction, unless such plans would seriously impair the historic, archeological or architectural value of surrounding structures designated as landmarks or historic districts. The Historic District Commission is not required to limit review to new construction, alteration or repair to the architectural style of any one period. In reviewing applications, the Historic District Commission shall give consideration to:

- a. The historic, archeological, or architectural significance of the site or structure;
- b. The relationship of the exterior features of a structure to the remainder of the structure;
- c. The general compatibility of the exterior design, scale, proportion, arrangement, texture, and materials proposed to be used on the landmark, site or structure; and
- d. Any other factors including aesthetic factors, which the Commission deems pertinent.

**13. Determination by Historic District Commission**

The Historic District Commission shall review the application for a historic area work permit or for a certificate of appropriateness and issue, deny or recommend modifications to the certificate of appropriateness within forty-five (45) days of the receipt of the application. Written notice of the approval, conditional approval, or denial of the application for a certificate of appropriateness shall be provided to the applicant and the Division of Permits and Inspections, and in the case of approval, be accompanied by a certificate of appropriateness.

**14. Denial**

If an application is denied, the applicant may submit an amended application that takes into consideration and addresses the Historic District Commission's reasons for denial.

**15. Automatic Approval**

Failure of the Historic District Commission to act upon the application within forty-five (45) days of the receipt of the application shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the Historic District Commission or the application is withdrawn.

**16. No Work to Commence without Approval**



The owner, lessee, or tenant of the property and premises shall not commence any proposed work or change until and unless he has received approval from the Division of Permits and Inspections and the Historic District Commission.

**17. Ordinary Maintenance – Completion of Work Under a Prior Permit**

Nothing in this section of the ordinance shall be taken or construed to prevent work or repairs on any structure coming under the heading of ordinary maintenance. Nothing in this subsection affects the right to complete any work covered by a permit or authorization issued prior to the adoption of this amendment, unless otherwise specified.

**18. Special Circumstances**

In the case of a designated historic site or structure, the Historic District Commission may approve the proposed reconstruction, restoration, alteration, moving, or demolition despite the provisions of subsection 12 provided:

- a. The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the County.
- b. Retention of the site or structure would cause undue financial hardship to the owner; and/or
- c. The retention of the site or structure would not be in the best interest of the County.

**19. Demolition by Neglect**

In the event of demolition by neglect, or willful neglect in the maintenance and repair of an individually designated landmark, site or structure, not including any appurtenances and environmental settings and not resulting from the recorded property owner's financial inability to maintain and repair said landmark, site or structure, the Historic District Commission shall undertake the following measures:

- a. The Historic District Commission may request the Division of Permits and Inspections to notify, in writing, the property owner(s) of record of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- b. The notice shall provide for the commencement of corrective action within thirty (30) days of the receipt of said notice and shall be completed within a reasonable period of time after issuance of said notice. The notice shall state that the owner of record of the property may within ten (10) days of receipt of said notice, request a hearing on the necessity of the items and conditions in said notice. If a public hearing is requested, the Historic District Commission shall schedule the matter at its next regular meeting. Written notice shall be sent to the owner of record.
- c. After a public hearing, if the Historic District Commission determines that corrective action remains necessary, the Historic District Commission may request that the Division

of Permits and Inspections issue a final notice of corrective action, which the property owner(s) shall comply within thirty (30) days of the receipt of said final notice.

- d. Upon failure, neglect, or refusal of the property owner, after being duly notified, to take corrective action within the time specified in said final notice, the Historic District Commission may request that the Division of Permits and Inspections institute penalties provided by law.

**20. Meetings to be Public**

All meetings of the Historic District Commission shall be open to the public. Any interested person or his representative is entitled to appear and be heard by the Historic District Commission. The Historic District Commission shall keep an open record of its resolutions, proceedings, and actions, which shall be kept available for public inspection.

**21. Appeal**

Any person aggrieved by a decision of the Historic District Commission may appeal the decision to the Circuit Court in accordance with the Maryland Rules of Procedure.

**22. Violations**

Violations of any of the provisions of this Part shall be subject to the enforcement provisions of Article XIX of this Ordinance.

**Part V Transfer of Development Rights**  
**Section 246.**

**1. Intent**

- a. It is the intent of these Transfer of Development Rights (TDR's) regulations to encourage the preservation of natural resources and facilitate orderly growth in the County.
- b. It is also the intent of these regulations to provide more attractive living environment than would be possible through a strict application of EMU, ST, UR, and RMU requirements to encourage a more creative approach to development of land.

**2. Authority**

This section is enacted under the authority granted to Cecil County by the General Assembly of Maryland as provided in Article 66B, Annotated Code of Maryland, Section 11.01 as amended.

**3. Residential Density Provisions**

- a. The maximum residential density utilizing transferred development rights in the ST zone that may be permitted by the Planning Commission shall be six (6) dwelling units per acre.
- b. The maximum residential density utilizing transferred development rights in the EMU, RMU, and UR zones that may be permitted by the Planning Commission shall be twelve (12) dwelling units per acre.

**4. Permitted Dwelling types in a development using TDR's**

- a. Subject to b below, the following dwelling types may be permitted when utilizing transferred development rights:
  - 1. Detached
  - 2. Semi-detached
  - 3. Duplex
  - 4. Townhouse provided that:
    - (a) No more than four (4) townhouses shall be permitted in one building block in the ST zone.

(b) No more than six (6) townhouses shall be permitted in one building block in the EMU, RMU, and UR zones.

5. Apartments provided:

(a) Maximum building length is no more than one hundred feet in all zones.

(b) No apartment shall be constructed closer to any property line than a distance equal to the height of the building.

(c) No apartment building shall be constructed closer to any other building on the same lot than a distance equal to the height of the higher of the two buildings. The space between the buildings may be reduced to a distance equal to half the taller of the two buildings provided:

(1) The spacing is approved by the Emergency Services representative to the Technical Advisory Committee;

(2) The apartment buildings are oriented side to side or corner to corner;

(3) The reduction in the building spacing requirement will allow for additional useable open space to be provided on the site; and

(4) The apartment buildings are designed in clusters rather than strips.

b. The maximum percentage of dwelling types permitted in a development utilizing TDR's shall be as follows:

<u>Zone</u>	<u>Detached</u>	<u>Semi-Detached/Duplex</u>	<u>Townhouse/Apartment</u>
EMU	20%	80%	50%
ST	30%	70%	40%
RMU	20%	80%	50%
UR	20%	80%	50%

**5. General Requirements**

a. The minimum parcel size for using TDR's in the ST and UR zones shall be ten (10) acres.

b. All developments using TDR's shall be served by community facilities.

c. In the ST and UR zones, the minimum common open space requirement in developments using TDR's shall be fifteen (15) percent of the gross site area, with passive amenities.

d. In the EMU and RMU zones, the minimum common open space requirement in developments using TDR's shall be ten (10) percent of the gross site area, with passive amenities.

e. The minimum and maximum number of parking spaces to be provided for each dwelling unit shall be consistent with Article XIV.

## **6. Lot Size, Lot Dimension, Lot Coverage, Height and Yard Requirements**

a. It is the intent of these regulations to permit flexibility in lot, yard, and setback requirements and to encourage innovative and creative design without endangering the health, safety and welfare of the residents in and near the development.

b. The setback, lot size, lot dimensions, height and yard requirements in developments using TDR's shall be established for each individual project by the Planning Commission. In establishing these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.

## **7. Site design Standards**

In addition to the design standards contained in Article IX, the TDR development shall comply with the following design standards:

a. The proposal shall be designed with regard to the soils, topography, and natural features of the parcel.

b. The proposal shall be designed to provide adequate pedestrian circulation.

c. The proposal's roads shall be designed to provide a logical road network adequate for internal movement.

d. The proposal shall be directly accessible from one (1) or more existing or planned arterial or collector roadways.

## **8. Administrative Procedures**

a. Development Right Density Sending Areas are areas in which landowners sell all or part of their by right permitted density as measured in acres encumbered from development per the formula depicted in Table 1, below. The transfer, or sale, of development right density shifts development demand, as measured in dwelling units, from the sending area to receiving area. Development Right Density Sending Areas shall meet the following criteria:

(1) Only those zoning districts designated as Northern Agricultural Residential (NAR) and Southern Agricultural Residential (SAR) shall serve as sending areas.

(2) The minimum parcel size for a sending parcel shall be twenty-five (25) acres in areas zoned NAR if adjacent to a property on which an agricultural preservation easement already exists, or fifty (50) acres in areas zoned NAR, otherwise; and fifty (50) acres in areas zoned SAR. Acreage already encumbered as a Development Right Environmental Sending Area shall not also be eligible for inclusion as a Development Right Density Sending Area.

(3) Soils on sending parcels shall meet the following minimum criteria:

- (a) At least 50% of the soils shall be classified as USDA Class I, II or III soils; or
- (b) If the land is wooded, 50% of the land is classified as Woodland Group 1 or 2; or
- (c) If the reason the land could not meet the above criteria was because of floodplain or wetland soils, those areas could be excluded as a percentage of land; or
- (d) If there is an insufficient percentage of USDA I, II, or III soils alone and there is an insufficient percentage of Woodland Group 1 and 2 soils alone, the land would qualify if the two exceed 60%

(4) The sending density for TDR's in areas zoned NAR shall be one (1) unit per five (5) acres. [See Table 1]

(5) The sending density for TDR's in areas zoned SAR shall be one (1) unit per three (3) acres. [See Table 1]

**Table 1. Development Right Density Sending Permitted Densities**

Density Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR	EMU	5	1	10:1
NAR	RMU	5	1	10:1
NAR	ST	5	1	6:1
NAR	UR	5	1	12:1
SAR	EMU	3	1	10:1
SAR	RMU	3	1	10:1
SAR	ST	3	1	6:1
SAR	UR	3	1	12:1

(amended 8/21/2012)

b. Development Right Environmental Sending Areas are areas in which a landowners sells an easement on all or part of his land for the purpose of establishing a Buffer in the Critical Area or providing an off-site location for satisfying the requirements of the Forest Conservation Regulations. The sale of the easement(s) provides for more environmental protection in the more environmentally-sensitive, rural sending area in return for higher than by-right densities in the more urban receiving area. Tables 2-7, following, describe and quantify the respective environmental easement area-to-density conversion. Development Right Environmental Sending Areas shall meet the following criteria:

- (1) Only those zoning districts designated as Northern Agricultural Residential (NAR) and Southern Agricultural Residential (SAR) shall serve as sending areas.
- (2) The minimum parcel size for a sending parcel outside the Critical Area shall be twenty-five (25) acres in areas zoned NAR if adjacent to a property on which an agricultural preservation easement already exists, or fifty (50) acres in areas zoned NAR, otherwise; and fifty (50) acres in areas zoned SAR. Acreage already encumbered as a Development Right Density Sending Area shall not also be eligible for inclusion as a Development Right Environmental Sending Area.
- (3) The sending density for Environmental TDR's in areas zoned NAR or SAR shall be two (2) dwelling units per one (1) acre of deed-restricted forest established in an approved forestry bank. Sites otherwise already protected are not eligible for such forest establishment. [See Table 2]

**Table 2. Development Right Environmental Sending Permitted Densities Outside Priority Preservation Areas**

Environmental Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR, SAR	EMU	1	2	10:1
NAR, SAR	RMU	1	2	10:1
NAR, SAR	ST	1	2	6:1
NAR, SAR	UR	1	2	12:1

(4) The sending density for Environmental TDR's in areas zoned NAR or SAR and designated a Priority Preservation Area shall be four (4) dwelling units per one (1) acre of deed-restricted forest established in an approved forestry bank. Sites otherwise already protected are not eligible for such forest establishment. [See Table 3]

(amended 8/21/2012)

**Table 3. Development Right Environmental Sending Permitted Densities  
Within Priority Preservation Areas**

Environmental Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR	EMU	1	4	10:1
NAR	RMU	1	4	10:1
NAR	ST	1	4	6:1
NAR	UR	1	4	12:1

(5) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be four (4) dwelling units per one hundred (100) linear feet of three hundred (300) feet deep deed-restricted, riparian, forested Buffer established in an approved forestry bank, in accordance with Section 196. Only sites outside the Critical Area and zoned EMU, RMU, LDR, ST and UR shall be eligible receiving areas. [See Table 4]

**Table 4. Critical Area Development Right Environmental Sending Permitted  
Densities 300' Buffers**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 300' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	4	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	4	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	4	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	4	12:1

(6) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be two (2) dwelling units per one hundred (100) linear feet of three hundred (300) feet deep deed-restricted, riparian, forested Buffer established to comply with Forest Conservation Regulation requirements in an approved forestry bank, in accordance with Section 196. Only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 5]



**Table 5. Critical Area Development Right Environmental Sending Permitted  
Densities 300' Buffers Also Satisfying Forest Conservation Regulations Requirements**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 300' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	2	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	2	12:1

(7) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be two (2) dwelling units per one hundred (100) linear feet of two hundred (200) feet deep, deed-restricted, riparian, forested Buffer established in an approved forestry bank, in accordance with Section 196. Sites otherwise already protected are not eligible for such Buffer establishment, and only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 5]

**Table 6. Critical Area Development Right Environmental Sending Permitted  
Densities 200' Buffers**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 200' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	2	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	2	12:1

(8) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be one (1) dwelling units per one hundred (100) linear feet of two hundred (200) feet deep, deed-restricted, riparian, forested Buffer established to comply with Forest Conservation Regulation requirements in an approved forestry bank, in accordance with Section 196. Sites otherwise already protected are not eligible for such Buffer establishment, and only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 7]

**Table 7. Critical Area Development Right Environmental Sending Permitted Densities 200' Buffers Also Satisfying Forest Conservation Regulations Requirements**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 200' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	1	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	1	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	1	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	1	12:1

c. Development Right Density Transfer Receiving Areas shall meet the following criteria:

- (1) Only those areas zoned EMU, ST, UR, and RMU shall serve as receiving areas.
- (2) The minimum parcel size for receiving parcels shall be ten (10) acres, except in the EMU and RMU zones.
- (3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area planned to be served in the next ten (10) years, or be serviced by a developer financed approved shared facility. The current Master Water and Sewer Plan for the County shall be used for this determination.

(4) The density for receiving areas in the ST zone shall not exceed six (6) units per acre.

(5) The density for receiving areas in the EMU, RMU, and UR zones shall not exceed twelve (12) units per acre.

d. Development Right Environmental Transfer Receiving Areas shall meet the following criteria:

(1) Only those areas zoned EMU, ST, UR, and RMU shall serve as receiving areas.

(2) The minimum parcel size for receiving parcels shall be ten (10) acres, except in the EMU and RMU zones.

(3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area planned to be served in the next ten (10) years, or be serviced by a developer financed approved shared facility. The current Master Water and Sewer Plan for the County shall be used for this determination.

(4) The density for receiving areas in the ST zone shall not exceed six (6) units per acre.

(5) The density for receiving areas in the EMU, RMU, and UR zones shall not exceed twelve (12) units per acre.

e. A concept plat shall be presented to the County's Technical Advisory Committee (TAC). The concept plat shall clearly state that TDR's are being used in the proposal and identify the sending parcel. The soils description shall be submitted along with a statement indicating the number of TDR's being utilized.

f. The Planning Commission will review the concept plat for conformance with this section and the subdivision regulations and approve or disapprove the plat.

g. A preliminary plat shall be submitted to the TAC for review and to the Planning Commission for approval or disapproval. The preliminary plat shall include the number of TDR's being utilized and identify the sending parcel.

h. A final plat shall be presented to the Director of Land Use and Development Services for approval or disapproval. Prior to the Director of Land Use and Development Services' review, a Transfer of Development Rights Conservation Easement shall be executed between the sending area parcel owner and the County and a Deed of Transfer of Development Rights shall be executed among the sending area parcel owner, the County, and the receiving area developer.

i. If the final plat is approved by the Director of Land Use and Development Services, the Transfer of Development Rights Conservation Easement and Deed of Transfer of Development rights shall be recorded in the Office of the Clerk of the Court for Cecil County. The record plats shall not be signed by the Director of Land Use and Development Services until the recordation of these documents occurs.

j. If a property owner sells a development right on a sending parcel, no further subdivision can occur on the sending parcel unless the acreage is withheld prior to the calculation of development rights.

k. The Cecil County Department of Land Use and Development Services shall send a certificate of availability of development rights to property owners that qualify as a sending area upon request.

l. If a landowner who is eligible to sell development rights sells those rights, the landowner shall notify the Department of Land Use and Development Services of the transaction and the number of development rights sold, unless those rights are sold to the County. The Department of Land Use and Development Services shall be notified of future transfer of the development rights between purchaser and seller, unless those rights are transferred through the County.

m. Development rights may be used by developments in incorporated municipalities provided the Towns adopt mechanisms to utilize these rights within the Towns.

9. Development proposals in the NAR and SAR zoning districts that have received concept plat approval prior to the adoption of this Transfer of Development Rights ordinance shall not have their approved density affected as long as the concept plats remain valid.

#### **Section 247. Brownfield Redevelopment District – BR**

The purpose of the BR district is to improve and enhance the redevelopment process and to promote additional reinvestment and redevelopment of brownfield sites. This district is intended to facilitate and encourage the continued viability of previously developed land and to promote the reuse of said land. Once development has occurred on a brownfield site or a portion thereof, the BR incentives shall no longer apply.

##### **1. Permissible Uses**

If the brownfield site is located in the County's designated growth area, those uses permitted shall be

the same as those permitted in the RMU and EMU zoning districts. If the brownfield site is located outside of the County's designated growth area and the base zoning district is designated as either commercial or industrial, the uses that shall be permitted are the same as those that are permitted by right (P), permitted with conditions (PC), and permitted as a special exception (SE) in the BG and BI zoning districts and permitted by right (P) and permitted with conditions (PC) in the M1 and M2 zoning districts. If the base zoning district is residentially zoned outside of the County's designated growth area, the uses permitted shall be the same as those permitted in the RR zoning district.

## **2. Residential Density Provisions**

- a. If the base zoning district is located in the County's designated growth area, the density permitted shall be the same as the RMU and EMU zoning district.
- b. If the base zoning district is located outside of the County's designated growth area, the density permitted shall be the same as the RR zoning district.

## **3. Design Flexibility**

The BR zone shall permit flexibility in lot, setback, height, and parking and loading requirements to encourage a creative design without endangering the health, safety and welfare of the residents and employees in the BR district.

- a. The Director of Land Use and Development Services shall be authorized to grant administrative adjustments for commercial and/or industrial developments as part of the site plan review process.
- b. The Planning Commission shall be authorized to grant modifications as part of the subdivision review process.

## **4. Landscaping and Bufferyards**

- a. A minimum of ten (10) percent of the development envelope of residential projects in the BR zone shall be landscaped. Landscape plans may be approved in phases but should follow an overall harmonious theme.
- b. In residential, commercial, and industrial developments, a minimum 25 foot Bufferyard C shall be provided around the perimeter of the development tract. Existing vegetation can be used to meet the Bufferyard requirement.

## **5. Fast Tracking / Fees**

Brownfield development projects for commercial and industrial zoned properties shall receive fast track designation from Cecil County government as part of the site plan review process. Additionally, all County fees associated with the project (i.e. permit, review, submittal, connection) shall remain static as they were on the date of initial submittal throughout the life of the project.

## 6. Process

Properties eligible to participate in and receive the BR overlay zone designation shall be those properties that are not:

- a. On the national priorities list under §105 of the federal act
- b. Subject to either local, state, or federal enforcement action
- c. Subject to a controlled hazardous substance permit issued in accordance with Title 7 of the Environment Article.

Projects for commercial and industrial zoned sites shall proceed through the site plan review process as contained in Article XV, Section 291 of the Cecil County Zoning Ordinance. Projects for residentially zoned sites shall proceed through the subdivision review process as contained in Article IV of the Cecil County Subdivision Regulations.

Projects that are no longer in good standing with the Maryland Department of the Environment's brownfield clean-up programs shall no longer be entitled to the incentives contained in this section. Additionally, projects that have the potential for the presence of a hazardous substance, pollutant, or contaminant that are found not to be affected shall no longer be entitled to the incentives contained in this section.

## **ARTICLE XII PLANNED UNIT DEVELOPMENT (PUD)**

### **Section 248. Planned Unit Development in General**

1. It is the intent of this Ordinance to regulate the density, design, and location of comprehensively planned, residential developments which will offer a variety of building types and a more efficient use of land and, within these limits, permit the optimum amount of choice in design and management of such varying types of residential structures including, detached single family dwellings, duplexes, semi-detached dwellings, townhouses, and apartments.
2. It is also the intent of this Ordinance to regulate development so as to provide a more attractive living environment than would be possible through the strict application of the EMU, RMU, ST, and UR requirements, to encourage a more aesthetic and efficient use of open space, and to encourage developers to use a more creative approach in the development of land. It is further the intent of these regulations to permit certain commercial and mixed uses in a PUD that serve the everyday needs of the residents of the PUD.
3. It is also the intent of this Ordinance to regulate development to permit creative designs and setbacks with dwelling units on smaller lots on higher densities in order to free more area for common open space.

### **Section 249. Residential Density Provisions**

1. The maximum density of a PUD in the EMU and RMU zones that may be permitted by the Planning Commission shall be ten (10) dwelling units per acre for all residential structure types.
2. The maximum density of a PUD in the ST zone that may be permitted by the Board of Appeals shall be six (6) dwelling units per acre for all residential structure types.
3. The maximum density of a PUD in the UR zone that may be permitted by the Board of Appeals shall be twelve (12) dwelling units per acre for all residential structure types.

### **Section 250. Permitted Dwelling Types in PUDs**

1. Subject to 2 below, the following dwelling types may be permitted in a PUD:
  - a. Detached (*A building containing one (1) dwelling unit on one (1) lot and detached from any other dwelling.*)

- b. Semi-Detached (*A building containing two attached dwelling units which share a common wall at the lot line and which are on separate lots.* )
- c. Duplex (*A building containing two (2) attached dwelling units which share a common wall and which are on one (1) lot.*)
- d. Townhouse (*A building containing three (3) or more attached dwelling units having common walls and/or roof and a separate entry for each unit. This definition includes townhouses and apartments.*) provided that:
  - (1) No more than four (4) townhouses shall be permitted in one building block in a PUD in the EMU and RMU zones.
  - (2) No more than six (6) townhouses shall be permitted in one building block in a PUD in the ST zone.
  - (3) No more than four (4) townhouses shall be permitted in one building block in a PUD in the UR zone.
- e. Apartments (*A building containing three (3) or more attached dwelling units having common walls and/or roof and a separate entry for each unit. This definition includes apartments and townhouses.*) provided that:
  - (1) Maximum building length is no more than one hundred (100) feet in length in all zones.
  - (2) No apartment building shall be constructed closer to any property line than a distance equal to the height of the building.
  - (3) No apartment building shall be constructed closer to any other building on the same lot than a distance equal to the height of the higher of the two buildings. The space between two apartment buildings may be reduced to a distance equal to half of the taller of the two buildings provided:
    - (a) The spacing is approved by the Emergency Services Representative to the Technical Advisory Committee; and
    - (b) The apartment buildings are oriented side to side or corner to corner; and
    - (c) The reduction in the building spacing requirement will allow for additional useable open space to be provided on the site; and
    - (d) The apartment buildings are designed in clusters rather than strips.

2. The maximum percentages of dwelling structure types in PUDs are recommended to be as follows:

<u>Zone</u>	<u>Detached</u>	<u>Semi-Detached or Duplex</u>	<u>Townhouse or Apartments</u>
EMU	30%	50%	50%
RMU	40%	50%	40%
ST	30%	60%	40%



UR                      20%                      60%                      50%

**Section 251. General Requirements**

1. The minimum parcel size for PUD's shall be as follows:

<u>Zone</u>	<u>Minimum Parcel Size</u>
EMU	8 Acres
RMU	8 Acres
ST	10 Acres
UR	10 Acres

2. All PUD's shall be served by community facilities.
3. A minimum of fifteen (15) percent of the development envelope shall be landscaped.
4. The minimum common open space or open in a PUD shall be twenty (20) percent of the gross site area. The open space shall be designed and designated for the common use of all the occupants of the PUD. The common open space shall be improved by the developer with recreational amenities as required by the Planning Commission. It shall only include structures and roads if approved by the Planning Commission.
5. A minimum of two (2) off-street parking spaces shall be provided for each dwelling unit, either on the lot the unit occupies or within 150 feet of the lot unless approved as per Section 277.

**Section 252. Business Establishments**

1. Certain business uses shall be permitted in PUD's in the EMU, RMU, ST, and UR zones provided that the gross floor area of such establishments does not exceed twenty-five (25) square feet for every dwelling unit approved in the PUD. Where existing or approved BL or BG commercial sites are located within a three-mile radius of the proposed PUD site, the gross floor area of business establishments shall not exceed ten (10) square feet for every dwelling unit approved in the PUD.
2. Permitted business uses in a PUD shall be those listed in the Permitted Uses Chart for the BL zone for proposal consisting of fewer than one hundred fifty dwelling units. For PUD proposals of at least one hundred fifty dwelling units, permitted business uses in a PUD shall be those listed in the Permitted Uses Chart for the BG.
3. The requirements of the BL or BG zones shall apply to business uses in a development in the PUD.

4. No business establishment in a PUD shall have direct access onto a major collector roadway or arterial roadway as defined on the Official Cecil County Roadway Classification Map.
5. Where adequate motorized and non-motorized access to adjacent BL- or BG-zoned property is included in the PUD design, no business or commercial component shall be required.

**Section 253. Business Establishment Phasing**

1. Any portions or parcels of a PUD designated for business uses shall be shown as such on the Sketch Plat and subsequent site plans to be reviewed.
2. No business establishment shall be permitted to operate until twenty-five percent (25%) of the residential units are constructed.
3. Details for clubhouses or community centers shall be included on the Preliminary Plat and shall include all details required by Section 291 and Appendix A of this Ordinance.

**Section 254. Lot Size, Lot Dimensions, Lot Coverage, Height, and Yard Requirements**

1. It is the intent of these regulations to permit flexibility in lot, yard and setback requirements and to encourage innovative and creative design without endangering the health, safety and welfare of the residents in and near the PUD.
2. The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the Planned Unit Development shall be established for each individual project by the Board of Appeals or the Planning Commission. In establishing these requirements the Board of Appeals or the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.

**Section 255. Site Design Standards**

In addition to the design standards contained in Article IX of this Ordinance, the PUD shall comply with the following design standards:

1. The PUD shall be designed with regard to the soils, topography and natural features of the parcel.
2. The PUD shall be designed to provide adequate non-motorized circulation and connectivity.
3. The PUD's roads shall be designed to provide a logical road network adequate for internal movement.

4. The PUD shall be directly accessible from one (1) or more existing or planned arterial or collector roadways.

#### **Section 256. Administrative Procedures**

1. Administrative Procedures in the EMU and RMU Zones. PUD's may be permitted in the EMU and RMU zones, and PUD applications shall be reviewed as set forth in Sections 4.0, 4.1, and 4.2 of the Cecil County Subdivision Regulations. In addition, the PUD Concept Plat application shall contain, either on the plat or in a separate appendix, the following information:
  - (a) Elevations of each building type.
  - (b) Proposed open spaces, their size, their location, their uses, and their proposed ownership (County and/or association).
  - (c) General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
  - (d) Statement of expected County responsibilities.
  - (e) Cost-Revenue ratio of the proposed PUD for the County.
  - (f) Tentative time table and staging of development. (Schedule of construction)
2. Administrative Procedures in the ST and UR Zones. All other proposed PUD's, in the ST and UR zones, may be permitted only by Special Exception, as may be granted by the Board of Appeals. The application for Special Exception shall include a Sketch Plat containing the information as specified in the Cecil County Subdivision Regulations (including, but not limited to, Section 6.0) and Appendix A of this Ordinance. In addition, the Sketch Plat/Special Exception Application shall include the following information:
  - (a) Elevations of each building type.
  - (b) Proposed open spaces, their size, their location, their uses, and their proposed ownership (County and/or association).
  - (c) General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
  - (d) Statement of expected County responsibilities.
  - (e) Cost-Revenue ratio of the proposed PUD for the County.
  - (f) Tentative time table and staging of development. (Schedule of construction)
3. The Sketch Plat/Special Exception applications in the ST and UR zones shall be reviewed by the Cecil County Technical Advisory Committee.
4. The Sketch Plat/Special Exception applications in the ST and UR zones shall be reviewed by Planning Commission and the Planning Commission shall make recommendations to the Board of Appeals.

5. The Sketch Plat/Special Exception applications in the ST and UR zones shall be reviewed by the Board of Appeals. The Board shall consider the recommendations of the Technical Advisory Committee, the Planning staff, the Planning Commission and the standards in Article XVII, Part II, in making their determination to approve or disapprove the proposed PUD.
6. Preliminary and Final Review and Approval Procedure. Following approval of the PUD Special Exception by the Board of Appeals the PUD or section thereof shall be processed in accordance with the provisions of the Cecil County Subdivision Regulations.
7. Provisions of the PUD when found to be in conflict with other provisions of the Cecil County Zoning Ordinance or Cecil County Subdivision Regulations (including, but not limited to, Section 6.0) shall supersede those other provisions with which they conflict.
8. The power to grant design modifications that is bestowed upon the Planning Commission in Section 170 of this Ordinance and Section 3.5 of the Cecil County Subdivision Regulations shall be extended to the Board of Appeals in their review of the Sketch Plat/Special Exception application.
9. Any PUD structure types and/or lots proposed in condominium ownership form shall be reviewed in accordance with the condominium review process that has been established by the County, with the Preliminary Plat/Site Plan approval's serving as the basis for the subsequent issuance of building permits. Condominium Final Plats would be reviewed by the Planning Commission, but said plats would be submitted as "as-builts."

**Section 257. Reserved**

**Section 258. Reserved**

## ARTICLE XIII SIGNS

### Section 259. General Requirements

1. The purpose of these Sign Regulations is to control the size and location of signs in the County in order to preserve safety and to prevent the proliferation of signs which detract from the appreciation of the landscape. Notwithstanding any other provision in this Ordinance, no sign shall be permitted, erected or used in any district except as permitted in this article.
2. Where other sign or outdoor advertising regulations are in effect and are more restrictive than the provisions of this Article, the more restrictive provisions shall prevail.

### Section 260. Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Article.

1. *Billboard.* A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located, not including painted walls.
2. *Building Sign.* Wall, roof, marquee, or projecting sign that is attached to a building.
3. *Bulletin Board.* A sign of permanent character, but with movable letters, words or numerals, indicating the names and persons associated with, or events conducted upon, or products or services offered upon, the premises upon which such a sign is maintained.
4. *Copy Area.* Copy area of a sign shall include the entire sign area excluding trim, moldings, battens, capping and nailing strips.
5. *Cutout.* An appendage to a sign extending outside of the regular square or rectangular sign area. The area of a cutout shall not exceed ten percent of the sign area. Cutouts shall be included in sign area calculations for the purposes of this Ordinance, except in industrial districts.
6. *Ground Sign.* A detached sign which shall include any sign, supported by uprights, pylons, poles or braces placed upon, or in, or supported by the ground and not attached to any building.

7. *Freestanding Sign.* Off site advertising, ground or shopping center identification not attached to a building.
8. *Identification.* A sign accessory to and located on the same premises as the business for which it advertises; such sign indicating the name of the business, the principal product or service, and/or logo. For the purposes of this Article, signs which contain ideological, religious or political thought or messages shall be considered identification signs.
9. *Instructional.* A sign conveying instructions with respect to the premises on which it is maintained, such as the entrance or exit of a parking area, a trespassing sign, a danger sign and similar signs.
10. *Marquee.* Any hood, canopy, awning or permanent construction projecting from the wall of a building above an entrance or existing over a thoroughfare, walkway or sidewalk.
11. *Marquee Sign.* A sign attached to a marquee used for notice, advertisement or announcement purposes.
12. *Maximum Aggregate.* The total of the sign area of all signs located on a parcel, excluding wall signs.
13. *Nameplate.* A sign indicating the name, address or profession or occupation of an occupant or a group of occupants.
14. *Off-Site Advertising.* A sign directing attention to a business, commodity, service or product which is not conducted, sold or offered upon the premises where the sign is located.
15. *Projecting Sign.* Projecting sign shall include any sign which is attached to a building and extends beyond the wall of the building to which it is attached or within the setback required for a building.
16. *Right-of Way.* Land maintained, dedicated or reserved for construction of, a street, road, court, place, walkway, square or lane.
17. *Roof Sign.* Roof sign shall mean and include any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure, subject to the provisions of wall sign.
18. *Scenic Byway.* A roadway whose historical, cultural, natural, archaeological, and/or recreational qualities promote Maryland's unique heritage. Scenic byways are designated at the State level.
19. *Setback.* A stated minimum distance on a lot as measured from the street line within which no signs may be erected.

20. *Shopping Center Identification Sign.* An identification sign accessory to and on the same property as the shopping center for which it advertises and which contains the name of the shopping center, names of tenants, and/or changeable copy.
21. *Sign.* A sign shall mean and include any writing, figure, representation, emblem, flag, three-dimensional figure or model, device, letter, word, street clock and temperature announcement, and shall include any announcement, declaration, demonstration, display, illustration, name, identification, description or insignia used to advertise or promote the interest of any person, group or business when the same is viewed by the general public. This definition shall not include interior sign displays (i.e., signs in windows); whether or not visible by the general public. This definition shall include any sign placed upon a vehicle or trailer when the location of the vehicle or trailer is reasonably construed as being placed for the display of advertising matter.
22. *Sign Area.* Except as otherwise defined, the area of a sign shall include the entire sign together with all trim, moldings, battens, capping and nailing strips which are attached and are part of the sign proper or incidental to its decoration. For the purpose of this Ordinance, signs which are composed of letters, words or representations only and which follow no square or rectangular pattern shall be considered to include in sign area a square or rectangle as drawn at the outer limits of the letters, words or representations.
23. *Street Frontage.* The linear measurement of a parcel along a street line, private road, or right-of-way to which the parcel abuts.
24. *Street Line.* A property line of a lot coincident with the line indicating the limits of a right-of-way, existing or proposed.
25. *Wall Sign.* Any sign not including a marquee sign or nameplate sign erected against the wall of any building or displayed with the exposed face thereof in a plane parallel to the plane of the wall. Wall signs shall include any business or advertising matter painted directly upon any wall. For the purposes of this Ordinance, the definition of wall sign shall include any sign erected, constructed or maintained upon or over the roof of any building provided that the maximum height of the sign shall not exceed the highest point of the supporting roof.

**Section 261. Signs Exempted From Regulation**

The following signs, limited in height to twenty-five (25) feet or the roof of the building on which it is erected, whichever is greater, are exempt from regulation under this Ordinance:

1. One (1) name plate not exceeding two (2) square feet in area, unlighted, indicating the name of the occupant and/or property per principal building or use on a premises.

2. One (1) lighted or unlighted sign identifying an institutional use, not exceeding thirty-two (32) square feet in size.
3. Signs not exceeding two (2) square feet in size posted to restrict activities on the property, such as No Hunting, No Trespassing, etc.
4. Unlighted signs identifying a permitted home occupation, limited to three (3) square feet in size.
5. Signs indicating public transportation stops.
6. Instructional signs giving information strictly for the purposes of direction, safety or convenience of the general public such as signs which identify public rest areas, public parking areas, entrances or exits, loading and no loading and the like, not to exceed four (4) square feet in surface area.
7. Memorial plaques, corner stones, historical tablets.
8. Signs established by duly constituted governmental authorities, including but not limited to traffic regulation signs, public notice signs and signs required to be maintained or posted by law or government order, rule or regulations.
9. Official signs of a noncommercial nature erected by public utilities.
10. Flags or emblems or governmental, educational or religious organizations and non-commercial signs relating to religious or political thought, house of worship bulletin boards, identification signs and church directional signs not to exceed thirty-two (32) square feet in area.
11. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
12. Signs which are attached or which are an integral part of gasoline pumps or other dispensing or servicing device; provided that such signs do not extend beyond the area of the pump, dispensing or servicing device to which they are attached.
13. At any entrance to a residential subdivision or multi-family development, there may be not more than two signs identifying such subdivision or development. A single side of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet.
14. Public notification signs required by Article III of the Subdivision Regulations.



## **Section 262. Exempt Temporary Signs**

The following temporary signs are exempt from permit procedures. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Ordinance.

### **1. Real Estate Sign**

Temporary signs indicating the sale, rental or lease of the premises on which it is located, including a development sign limited to the following two (2) types:

- a.** Lot premises sign - sign advertising the sale or rental of a lot, premises, dwelling, or structure.
  - (1)** Maximum six (6) square feet in area;
  - (2)** Minimum five (5) foot setback from a street;
  - (3)** One (1) permitted per each street frontage on which the premises abuts.
- b.** Development signs - a sign advertising the sale or rental of structures under construction upon the land which is under development, permitted with a permit in all zones but limited to the following:
  - (1)** Maximum sign area shall be the maximum total size permitted for the zone in which it is located;
  - (2)** Minimum setback from street will be the minimum setback for the zone in which it is located;
  - (3)** One (1) sign permitted per each street frontage on which the premises abuts.

### **2. Other Temporary Signs**

A sign to be placed on a lot for a limited period of time to advertise for a grand opening, special event, sale, and the like shall be permitted in any zone subject to the following limitations:

- a.** A permit is issued for a period not to exceed thirty (30) days;
- b.** Maximum sign area shall be the maximum total size permitted for the zone in which it is located;

- c. Minimum setback is five (5) feet front and ten (10) feet side and rear;
- d. The sign will not interfere with vehicular or pedestrian movement;
- e. A sign may remain after the thirty (30) days expires if a Special Exception is obtained.

**3. Election Signs**

Lighted or unlighted political signs or posters may be erected in any zone under the following conditions:

- a. Signs shall be removed after the primary or special election. Candidates who win the primary may maintain their signs until the following general election.
  - b. No political sign shall exceed thirty-two (32) square feet in area unless posted on an existing legal billboard.
  - c. The signs shall not interfere with pedestrian or vehicular traffic.
- 4.** Banners, twirling, "A" type, sandwich type, sidewalk or curb signs and balloons or other air or gas filled figures displayed on a temporary basis.
- 5.** Outdoor advertising of any kind or character where any live animal or person used as part of the advertising is visible from any public street or public place displayed on a temporary basis.

**Section 263. Prohibited Signs**

The following signs shall be prohibited:

- 1.** Moving, movable, or animated signs except time and temperature indicators.
- 2.** Stereopticon or motion picture mechanism in conjunction with any outdoor advertising structure, accessory sign or advertising statuary used in such a manner as to permit or allow the images to be visible from any public street or sidewalk.
- 3.** Signs which produce noise or sounds.
- 4.** Signs which emit visible smoke, vapor, particles or odor.
- 5.** Signs erected that by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use

of words "stop", "look", "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse vehicular traffic.

6. Signs erected, constructed or maintained so as to obstruct, or be attached to any fire-fighting equipment, window, door or opening used as a means of ingress or egress or for fire-fighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
7. Any sign depicting specified sexual activities or specified anatomical areas.
8. Any sign using obscene or offensive language.
9. Notices, placards, bills, cards, posters, advertisements, or other signs mounted or placed in any fashion upon any lamppost, electric light, telegraph or utility pole, hydrant, tree or tree box, or upon any piers or columns located on or along the public streets and highways of Cecil County, except as such may be authorized or required by law.
10. Any billboard or off-site advertising sign located along a designated scenic byway.
11. Any off-site advertising sign located along an interstate highway prohibited by the 1965 Federal Highway Beautification Act.

#### **Section 264. Permit Required for Signs**

1. Except as otherwise provided in Sections 261, 262, and 268, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.
2. Signs not exempted under the provisions referenced in Subsection 1 may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a Building Permit and Zoning Certificate.
3. For any sign over 150 square feet in area or 25 feet in height at its highest point, the County may require review and approval of structural plans and designs, including the seal of a registered professional engineer legally permitted to practice in the State of Maryland.
4. All signs which employ electrical current of any means shall be reviewed and approved by the appropriate electrical inspector.
5. Signs located along State maintained roads may require additional permits from the State Highway Administration to be obtained prior to issuance of a Building Permit and Zoning Certificate.

**Section 265. Sign Specifications**

1. No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and a variance has been obtained from the County.
2. No part of a freestanding sign may exceed the height limitations of the particular zone in which it is placed unless otherwise specified by this Article.
3. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.
4. Ground Sign
  - a. Notwithstanding any other provisions of this Article, no ground sign greater than thirty-five (35) square feet in area shall be permitted within twenty (20) feet of any residential zoning district; and no ground sign greater than fifty (50) square feet in area shall be permitted within forty (40) feet of any residential zoning district.
  - b. All ground signs shall have permanent foundations, shall be level, and shall be constructed according to specifications approved by the County with the application for a Building permit.
  - c. No ground sign shall be placed closer to a road right-of-way more than five (5) feet or thirty-five (35) feet from the centerline of the road, whichever is greater.
5. Marquee Signs shall not project more than eighteen inches beyond the marquee faces or edges.
6. Projecting Sign
  - a. May not project into the setback required for a ground sign.
  - b. No projecting sign shall be permitted which obstructs or interferes or in any way becomes a hazard to the orderly movement of pedestrian or vehicular traffic.
7. Roof Sign
  - a. No sign may extend above the permitted height for the zone in which it is located.

- b. Roof signs shall observe all building setbacks.
- c. No roof sign shall be oriented toward any residential use.

**8. Wall Sign**

- a. May not extend outward more than eighteen inches from the wall to which it is attached.
- b. May not extend beyond the wall to which it is attached.
- c. Wall signs may be erected on building walls which are nonconforming if they conform to a. and b. above.

**Section 266. Off-Site Advertising Signs**

Lighted or unlighted outdoor advertising signs shall only be permitted in the BG, BI, M1 and M2 Zones provided that the following are met:

1. The area of such signs are limited to four hundred (400) square feet;
2. No such sign shall be nearer than one hundred (100) feet to any residence located in an adjoining residential zone if designed to face into such zone and be visible therefrom.
3. The height of such sign shall not be greater than the maximum permitted height for the zone in which it is located or the roof of the building on which it is erected.
4. No off-site advertising signs shall be placed closer to a road right-of-way more than five (5) feet or 35 feet from the centerline of the road, whichever is greater.
5. No such sign shall be located within one hundred (100) feet of any intersection;
6. A sign may be illuminated if illumination is confined to the surface of the sign.

**Section 267. Maintenance of Signs**

1. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair.

2. If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
  
3. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of Section 268, which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

**Section 268. Nonconforming Signs**

1. Subject to the remaining restrictions of this section, any sign legally existing on the effective date of this Ordinance which does not conform to the provisions thereof is classified as a legal non-conforming sign. Repair and maintenance of such signs is permitted, but if non-conforming as to size, no such sign shall be enlarged.
  
2. No person may increase the extent of nonconformity of a nonconforming sign. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
  
3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance.
  
4. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land.
  
5. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

**Section 269. Maximum Total Sign Area by Zoning District**

ZONE DISTRICT	NAR	SAR	RR	LDR	ST	UR	VR	MH	RM	RMU
<b>Maximum square footage</b>										
Freestanding Signs	12	12	12	16	16	16	16	16	16	16
Off-Site Signs	--	--	--	--	--	--	--	--	--	--
Building Signs	12	12	12	16	16	16	16	16	16	16

ZONE DISTRICT	EMU	BL	BG	BI	MB	M1	M2	MEA	OS	PUD
<b>Maximum square footage</b>										
Freestanding Signs	40	40	400	400	64	400	400	40	12	16
Off-Site Signs	--	--	400	400	--	400	400	--	--	--
Building Signs	32	32	100	400	64	400	400	100	12	16

**Section 270. Reserved**

**Section 271. Reserved**

## **ARTICLE XIV ACCESSIBILITY AND PARKING REQUIREMENTS**

### **Section 272. General**

- 1.** All uses permitted shall be subject to the following minimum off-street parking requirements:
  - a.** Parking spaces shall be reserved for the particular use of the structure for which they are required and shall conform to the specifications in Section 277 Table of Parking and Loading Requirements.
  - b.** Loading spaces shall be reserved for the particular use of the structure for which they are required and shall conform to the specifications in Sections 276 and 277.
  
- 2.** With approval of the Cecil County Planning Commission or the Department of Land Use and Development Services, a portion of the required parking may be on a lot other than the one on which the proposed building or facility serviced by those parking spaces is located, provided that the proposed parking area has the same zoning classification as the proposed building or facility, and all applicable sections of this ordinance and the following criteria are met:
  - a.** If parking is to be provided off-site or off-lot, the parking facility shall adequately serve both adjacent proposed development, if any, and any potential use on the lot the parking facility is proposed. If no development is to be proposed on the lot which will contain the parking facility, a properly recorded instrument restricting further development and notes referencing said instrument on all plats or plans must be approved by the approving authority.
  - b.** A parking plan is filed and approved by the Cecil County Planning Commission or the Department of Land Use and Development Services.
  
- 3.** The required minimum number of parking spaces may be reduced by the Department of Land Use and Development Services or the Planning Commission when an area is set aside as a park and ride facility in connection with a public or private multi-passenger transportation stop or a bona fide ride sharing program. Any proposal seeking this reduction by forming a private multi-modal or multi-passenger transportation system must be approved by the Cecil County Planning Commission or the Department of Land Use and Development Services.

### **Section 273. General Parking Specifications**

- 1.** Required parking space(s) for all uses shall conform with the requirements for that use as outlined in this Ordinance and Section 277 Table of Parking and Loading Requirements.



2. Parking shall be placed to adequately serve adjacent existing uses as practical.
3. Parking areas for non-residential uses shall be screened by the use of landscape materials, other plantings, berms and/or fencing from all residential uses to reduce heat, glare, noise, light, litter, and dust emanating from these areas and the proposed use. If a parking area is designed to serve one or more uses, the parking area may be designed to create an "interior court" on which uses may front, and the applicable landscape buffer and screening requirements may be modified as approved by the Cecil County Planning Commission or the Department of Land Use and Development Services.
4. Landscaping, buffers, and screening shall be required for all parking areas as per this Ordinance, unless modified as described above.
5. All parking area landscaping, buffers, screening, and surfacing must be maintained in good repair.
6. All access landscaping, buffers and screening must be located and designed so as not to obstruct free flow of traffic. There shall be adequate provisions for ingress and egress from all parking spaces to ensure ease of mobility, ample clearance and safety of vehicles, bicyclists, and pedestrians.
7. Where sidewalks or bicycle facilities occur in parking areas, parked vehicles shall not overhang the sidewalk or bicycle facility unless an additional one (1) foot is provided in order to accommodate such overhang.
8. Large parking areas, with over one hundred (100) spaces, shall be broken down into sections as appropriate for the type and size of development. Sections shall be separated by landscaped driveway strips, berms, and similar elements.
9. When the application of a unit of measurement for parking space to a particular use or structure results in a fractional space, any fraction under one-half shall be disregarded, and fraction over one-half shall be counted as one parking space.
10. Each parking space approved by the Maryland Energy Administration for use as an electric vehicle charging station shall count as two (2) spaces toward meeting the minimum number of parking spaces required.
11. Each parking space approved by the Maryland Energy Administration for use as an electric vehicle charging station shall be exempt from limitations as to the maximum number of parking spaces permitted.

12. Parking spaces and aisleways shall be designed in accordance with the following dimensional standards:

<u>Parking Angle</u>	<u>Stall Width</u>	<u>Stall Length</u>	<u>Aisleway Width</u>
90°	9 ft.	18 ft.	24 ft. for one or two way traffic
60°	9 ft.	19 ft.	18 ft. for one way traffic 22 ft. for two way traffic
45°	9 ft.	18 ft.	16 ft. for one way traffic 22 ft. for two way traffic
Parallel	9 ft.	22 ft.	16 ft. for one way traffic 22 ft. for two way traffic

**Section 274. Residential Parking Specifications**

1. Required off-street parking spaces shall be provided on the site with the proposed use, or on an off-site reserved parking area within walking distance of the proposed use.
2. Driveways shall be considered as constituting off-street parking spaces for one and two family dwellings in residential districts; provided that sufficient spaces are available on such driveways to meet the requirements of this article. Driveways shall measure not less than twelve (12) feet in width and eighteen (18) feet in length.
3. For Residential P.U.D.'s, on-street parking may be permitted in certain instances, when the development design and form dictate and when a Parking Plan is approved by the Cecil County Planning Commission.
4. Each required parking space shall measure not less than nine (9) feet in width and eighteen (18) feet in length.
5. Off-street parking for any non-residential use within any residential zone shall conform with the requirements for that non-residential use as outlined in Section 277 Table of Parking and Loading Requirements.
6. The required minimum number of parking spaces for all residential uses shall conform with the requirements for that residential use as outlined in Section 277 Table of Parking and Loading Requirements.
7. Landscaping shall be provided as per Article X of this Ordinance.

8. All multifamily residential subdivision site plans shall include a parking plan that includes a lighting plan in conjunction with a safe bicycle, pedestrian and vehicular circulation plan.
9. The maximum number of number of off-street parking spaces allowed shall be twenty (20) percent in excess of the minimum number required as outlined in Section 277 Table of Parking and Loading Requirements. In townhouse and apartment developments, the maximum number of parking spaces permitted shall be 3.25 per dwelling unit, except:
  - a. Those spaces required for compliance with the Americans With Disabilities Act of 1990; and
  - b. Those spaces approved by the Maryland Energy Administration for use as an electric vehicle charging station.

**Section 275. Business/Industrial Parking Specifications**

1. Required off-street parking spaces shall be provided on the site with the proposed use or on an off site reserved parking area within walking distance of the proposed use.
2. Off-street parking in any non-residential zone shall not be permitted closer than ten (10) feet from rights-of-way, easements, or alleyways and must be located outside of required bufferyards.
3. Each required parking space shall measure not less than nine (9) feet in width and not less than eighteen (18) feet in length.
4. Landscaping shall be provided as per Article X of this Ordinance.
5. The parking requirement for two (2) or more uses on the same property shall be the sum of the individual requirements for each unless a modification is granted by the Cecil County Planning Commission or Department of Land Use and Development Services.
6. Parking Plans shall be required for all new business and industrial uses which shall show all required improvements as outlined herein.
7. Barriers shall be erected on all parking lots and designed and located to prevent parked vehicles from extending beyond property lines of parking areas.
8. On-street parking may be permitted in certain instances when design dictates, and a parking plan must be approved by the Cecil County Planning Commission or the Department of Land Use and Development Services.

9. All commercial site plans shall include a parking plan consistent with Appendix A, Item III-47 of this Ordinance. Large parking areas, with over one hundred (100) spaces, shall be broken down into sections as appropriate for the type and size of development and shall be designed to include a lighting plan in conjunction with a safe bicycle, pedestrian and vehicular circulation plan.
  
10. The maximum number of number of off-street parking spaces allowed shall be ten (10) percent in excess of the minimum number required as outlined in Section 277 Table of Parking and Loading Requirements, except those spaces required for compliance with the Americans with Disabilities Act of 1990.

**Section 276.** General Loading Specifications

As required, off-street loading spaces which have unobstructed access to a street or alleyway shall be provided.

**Section 277. Table of Parking and Loading Requirements**

Parking for all uses shall conform with the requirements for that use as outlined in the following Table of Parking and Loading Requirements.

<b>USE</b>	<b>LOADING SPACE</b>	<b>OFF-STREET PARKING REQUIREMENT*</b>
<b>RESIDENTIAL</b>		
Single Family Unit		2.0 spaces
Apartment		
1 Bedroom		1.8 spaces
2 Bedroom		2.0 space
3 Bedroom		2.5 spaces
Townhouse		
1 Bedroom		1.75 spaces
2 Bedroom		2.00 spaces
3 Bedroom		2.50 spaces
Manufactured Home		
1 Bedroom		1.8 spaces
2 Bedroom		2.0 spaces
Elderly Housing		1.0 space per unit
Rooming or Boarding House		1.0 space per roomer or boarder in addition to the normal required for the dwelling unit
<b>NON-RESIDENTIAL</b>		
Airports	As required	0.5 spaces per acre of land or minimum 20 spaces and 2 spaces for each plane tie down site
Assembly Hall	As required	1.0 space per every 100 sq. ft. GFA
Amusement Park	2	10 spaces per ride or activity area plus 1.0 spaces per employee
Appliance/Hardware Store	As required	2.0 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 300 sq. ft. over 1,000 sq. ft. GFA.
Arenas, exposition halls, stadiums, race tracks, fairgrounds, etc.	5	1.0 space for every 2 seats and 1.0 space for each employee
Art Gallery	1	1.0 space per 150 sq. ft. GFA
Auditorium	As required	1.0 space per 3 permanent seats
Automobile salesrooms and repair shops	As required	1.0 space for each 500 feet sq. ft. GFA
Automobile service station	As required	1.0 space for each 100 sq. ft. GFA Minimum 10

USE	LOADING SPACE	OFF-STREET PARKING REQUIREMENT*
		spaces. Each service rack may be counted as one space but pump areas may not be counted
Bank and Other Financial Institutions		4.0 spaces per every 1,000 sq. ft. GFA
Beaches		1.0 space for each 10 lineal feet of beach frontage and 1.0 space per employee
Beauty Parlor, Barber Shop, and Personal Services		3.0 spaces per chair
Bed and Breakfast		1.0 space per guest room plus 2.0 spaces per owner's unit
Bowling Alley	1	5.0 spaces per alley
Bus Terminal		10.0 spaces per loading bay
Campground		3.0 spaces per 2 campground site
Car Wash, attended		10 spaces per washing lane
Car Wash, unattended		4 spaces per wash bay
Church/Synagogue		1.0 space per 3 seats
Clinic		1.0 space per client during the peak hour
Clubs, lodges and related facilities	1	1.0 space per every 2 people at rated capacity
Coliseum, Stadium		1.0 space per 3 seats
Convenience Store	As required	1.0 spaces per every 250 sq. ft GFA
Day Care Center		1.0 space per adult attendant, plus 1.0 space per 500 sq. ft. GFA devoted to such use
Department Stores	2	4.0 spaces per every 1,000 sq. ft. GFA plus 1.0 spaces per employee on maximum shift
Equipment Sales/	2	2.0 spaces per every 1,000 sq. ft. GFA,
Service Shop/Wholesale		plus 1.0 space per every 300 sq. ft. GFA over 1,000 sq. ft.
Express Delivery Service	As Required	1.0 space per two employees on maximum shift, plus 1.0 space per each vehicle maintained in the premises
Fast Food Restaurant With or Without Drive-Through Facilities		1.0 space per 4 seats, plus 1.0 spaces per 2 employees on maximum shift. With drive-through facility, add 8 stacking spaces for the drive-through window
Flex Space	As Required	1.0 space per 200 sq. ft. GFA and 1.0 per employee
Funeral Establishments	2	1.0 space per 60 sq. ft. GFA and 1.0 per employee
Furniture Stores	2	1.0 space per 500 sq. ft. GFA, plus 1.0 space per

USE	LOADING SPACE	OFF-STREET PARKING REQUIREMENT*
		employee on maximum shift
Golf Course		6.0 per hole
Group Homes		1.0 space per staff person, plus 1.0 space per 2 occupants
Health Club		10 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 2 employees
Hospital, sanitariums		1.0 space per bed plus 1.0 spaces per employee on the largest shift, plus 1.0 space per hospital vehicle, 10 spaces for out-patient service
Hotel/Motel	2	1.0 space per room or motel unit, plus 1.0 space per employee on maximum work shift, plus 1.0 space per each 200 sq. ft. GFA commercial floor area contained therein
Indoor and Outdoor Commercial Recreation		1.0 space per 150 sq. ft. GFA and/or ground area devoted to such uses, or 1.0 space per 4.0 seats of facilities available for patron use as applicable
Industrial Uses	As required	1.0 space per employee at maximum projected capacity
Library	As required	1.0 space per 300 sq. ft. GFA
Maritime uses - commercial, community yacht club	As required	0.5 spaces per slip or mooring buoy
Wholesale Establishments	As required	1.0 space per 2.0 employees on the shift with the greatest employment, plus 1.0 space per 200 sq. ft GFA devoted to sales
Medical Center, Medical and Dental Offices, Clinics		1.0 space per 200 sq. ft. GFA
Outdoor Equipment and Machinery Sales	As required	1.0 spaces per 300 sq. ft. GFA of retail space
Minature Golf		2.0 spaces per hole
Nightclub		1.0 space per 2 seats
Nursing Home		1.0 space per 3 beds
Nurseries/Greenhouses	As required	1.0 spaces per 300 sq. ft. GFA of retail space
Offices, Business and Professional		1.0 space per 200 sq. ft. GFA
Pool or Billiard Hall		4.0 spaces per 1,000 sq. ft. GFA
Post Office	As required	1.0 space per 400 sq. ft. GFA devoted to patron use plus 1.0 space per 2.0 employees on the

USE	LOADING SPACE	OFF-STREET PARKING REQUIREMENT*
		shift with greatest employment
Racquetball Courts		2.0 spaces per court
Railroad Station	As required	100 spaces minimum
Receiving Centers	As required	1.0 space per 5,000 sq. ft. GFA
Research Centers	As required	1.0 space per 1,000 sq. ft. GFA
Restaurant, Snack Bar, and Taverns	1	1.0 space per 5 seats, plus 2.0 spaces per 200 sq. ft. GFA
Retail Store	As required	1.0 space per 200 sq. ft. GFA
Schools		
- Kindergarten, Nursery School	1	4.0 spaces plus 1.0 for each classroom
- Elementary and Middle Schools	1	1.0 space every 20 classroom seats
- High Schools	1	1.0 space every 10 classroom seats
- College and universities	1	2.0 spaces per every 3.0 students plus 1.0 space per each staff member
Service Station	As required	4.0 spaces per bay and work area
Shipping Center	As required	1.0 space per 5,000 sq. ft. GFA
Shopping Center	As required	5.5 space per 1,000 sq. ft. GFA
Skating Rink	As required	1.0 space per 200 sq. ft. GFA
Social, Fraternal, Social Service, Union, Civic Organization Building		1.0 space per 60 sq. ft GFA plus 1.0 space per employee
Storage Areas	As required	1.0 space per 5,000 sq. ft. GFA
Self Storage Facility	As required	1.0 space per 20 storage stalls
Super Market, Grocery/Food Store	As required	3.0 spaces per 1,000 sq. ft. GFA 1.0 space per 4 persons of capacity plus
Swimming Pool, Tennis Courts and other Recreational facilities	As required	1.0 space per employee
Theater, Public Assembly, Meeting Establishments, Etc.	As required	1.0 space per each 2.0 seats
Veterinary Offices	As required	1.0 space per 400 sq. ft. floor space in office, with a 4 space minimum
Zoo	As required	1.0 space per 2,000 sq. ft. of land area

Table Notes:

GFA = Gross Floor Area

GLA = Gross Lease Area

\* When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction shall be counted as one parking space.



**Section 278. Bicycle Accessibility, Mobility, and Parking**

1. All non-residential permitted uses shall be subject to the following minimum off-street bicycle parking requirements:
  - a. Bicycle lanes shall be striped on all interior streets, parking lots or roadways and/or “share the road” MUTCD-approved signage shall be installed in the EMU and RMU zones, and in PUDs.
  - a. Bicycle storage racks, or bicycle stands, shall be reserved for the particular use of the structure for which they are required.
  - c. Unless otherwise stated, the requirement shall be satisfied by the installation of Class III bicycle storage racks or bicycle stands.
  - d. In the EMU zone, and in the BG and BI zones in the 2010 Comprehensive Plan’s Growth Area, Class I bicycle storage racks, or bicycle stands, shall be installed to accommodate a minimum of six (6) bicycles or one (1) bicycle for every fifteen (15) auto parking spaces required for the use, whichever is greater, consistent with Section 275.9.
  - e. In the RMU zone, in the BL zone in the 2010 Comprehensive Plan’s Growth Area, and for non-residential uses outside the Growth Area but along designated bicycle routes, bicycle storage racks, or bicycle stands, shall be installed to accommodate a minimum of six (6) bicycles or one (1) bicycle for every fifteen (15) auto parking spaces required for the use, whichever is greater, consistent with Section 275.9.
2. All permitted multi-family residential uses shall be subject to the following minimum access and off-street bicycle parking requirements:
  - a. Bicycle lanes shall be striped on all interior streets or roadways and/or “share the road” MUTCD-approved signage shall be installed in the EMU and RMU zones, in PUDs, and in apartment developments.
  - b. Class I storage racks, or bicycle stands, shall be required for each structure within an apartment development, or apartment-type structure condominium development. Each rack shall accommodate a minimum of one (1) bicycle per dwelling unit, or one (1) bicycle for every eight (8) auto parking spaces required per Section 277, whichever is greater.
  - c. For apartments or apartment-type structure condominium developments along designated bicycle or transit routes, bicycle storage racks, or bicycle stands, shall be

installed to accommodate a minimum of one and one-half (1.5) bicycles per dwelling unit. At least 60% shall be Class I or Class II racks.

**Section 279. Americans with Disabilities Act**

Parking requirements pursuant to compliance with the Americans with Disabilities Act shall be as set forth in Table 279.1, below.

**Table 279.1 ADA Parking Requirements**

Total Number of Parking Spaces Provided (per lot)	(Column A) Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	<u>1/8 of Column A*</u>	<u>7/8 of Column A**</u>
1001 and over	20 plus 1 for each 100 over 1000	<u>1/8 of Column A*</u>	<u>7/8 of Column A**</u>

\* one out of every 8 accessible spaces \*\* 7 out of every 8 accessible parking spaces

## **ARTICLE XV PERMITTING AND APPROVAL PROCESS**

### **Section 280. Approvals**

- 1.** All departments, officials and agencies of Cecil County that are vested with the duty or authority to grant approvals or to issue permits or licenses shall conform to the provisions of this Ordinance, and shall grant no approval nor issue any permit or license for any use, building, or purpose which would constitute a violation of this Ordinance. Any approval, permit or license granted or issued in conflict with the provisions of this Ordinance shall be null and void.
- 2.** Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance and the Comprehensive Plan.

### **Section 281. Zoning Certificates and Building Permits**

- 1.** No building or other structure, except public utility lines, shall be erected, moved, or altered, without a Building Permit first being obtained.
- 2.** No building, or other structure, or land shall be used, nor shall any building, structure, or land be converted, wholly or in part, to any other use, except for agriculture, permitted under the provisions of this Ordinance, until a Zoning Certificate certifying compliance with these regulations, has been issued by the Zoning Administrator.
- 3.** No zoning certificate or building permit shall be issued which is not in conformity with the provisions of this Ordinance, or other applicable regulations, except after written order from the Board of Appeals.
- 4.** All applications for zoning certificates and building permits shall be accompanied by a plot plan in duplicate, detailing the information required for plot plans in Appendix A, and any other information that may be required by the Zoning Administrator to determine conformance with and to provide for enforcement of this Ordinance.
- 5.** If the work described in any zoning certificate or building permit has not begun within one year from the date of issuance thereof, said certificate and permit shall expire. Further, if the work described has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding (in the opinion of the Zoning Administrator), the zoning certificate and building permit shall likewise expire. This shall not, in either instance, prevent the person affected from seeking a new zoning certificate and

building permit insofar as the proposed work complies with all laws regarding the application that are applicable at that time.

**Section 282. Adequate Public Facilities**

Pursuant to Article 66B, Section 10.01, Cecil County maintains the authority to enact "Adequate Public Facilities" regulations, including but not limited to Water Supply, Sewers, Roads, Public Schools, Police, Fire and Rescue Services, Storm Drainage and Utilities.

**Section 283. Severability**

1. Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state, and federal codes, statutes, and regulations.
2. No building permit which was lawfully issued prior to the original effective date of this Ordinance and which is in full force and effect at said date shall be invalidated by the passage of this Ordinance.

**Section 284. Permit Application Requirements and Procedures**

1. All applications for permits shall be accompanied by such plans and information as Cecil County deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. The application materials listed in Appendix A shall be the minimum. Additional information may be required.
2. After reviewing the application materials, the Zoning Administrator shall mark the application either as "Approved" or "Disapproved" and attest to the same by signature on such copy.

**Section 285. Reconsideration of Board Action**

1. Whenever the Board of Appeals disapproves an application for a special exception or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board at a later time unless the applicant clearly demonstrates that:
  - a. Circumstances affecting the property that is the subject of the application have substantially changed, or

- b. New information is available that could not with reasonable diligence have been presented at a previous hearing.
  - c. A court of competent jurisdiction has ordered a remand.
- 2. Notwithstanding Subsection 1, the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

**Section 286. Maintenance of Common Areas and Facilities**

The recipient of any zoning certificate, building permit or other permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the County. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

**Section 287. Records of Zoning Administrator**

The Zoning Administrator shall keep records of all zoning permits issued under this Ordinance; maintain permanent and current records related to the Ordinance, including zoning maps, amendments, special exceptions, variances, appeals, and planned unit development site plans.

**Section 288. Structures and Uses to be as Provided in Building Permits, Plans, and Zoning Certificates**

- 1. Building permits or zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.
- 2. Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and applications.

**Section 289. Sketch Plat**

A sketch plat prepared in accordance with Article IV of the Cecil County Subdivision Regulations and this Ordinance shall be required for all applications for Planned Unit Development.

**Section 290. Minor Site Plans**

1. The purpose of minor site plans is to assure that certain minor improvements are consistent with the applicable requirements of this Ordinance. Development requiring a minor site plan shall only be permitted in accordance with the approved plan.
2. Minor site plans shall be approved by the Department of Land Use and Development Services. A proposed minor site plan may be attached by the applicant to the building permit application of the proposed improvement and shall be reviewed by the Department of Land Use and Development Services concurrently with the building permit.
3. Minor site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
4. All minor site plans outside the Chesapeake Bay Critical Area shall clearly show the required information shown in Appendix A.
5. All minor site plans inside the Chesapeake Bay Critical Area shall clearly show the required information shown in Appendix C.

**Section 291. Major Site Plans**

1. The purpose of major site plans is to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements.
2. Site plans for all residential development and manufactured home parks shall be prepared and approved as set forth in the Cecil County Subdivision Regulations, as amended, in addition to the requirements of this Ordinance.
3. Development requiring major site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.

4. Site plans for developments outside the Chesapeake Bay Critical Area, where required in this Ordinance, shall be prepared and submitted as described in Appendix A and approved by the Department of Land Use and Development Services. Said Department may, at its discretion, waive or modify certain of the requirements stated below in cases where strict compliance with all the requirements would impose an unnecessary burden on the applicant.
5. Site plans for developments inside the Chesapeake Bay Critical Area, where required in this Ordinance, shall be prepared and submitted as described in Appendix C and approved by the Department of Land Use and Development Services. Said Department may, at its discretion but consistent with Critical Area requirements, modify certain of the requirements stated below in cases where strict compliance with all the requirements would impose an unnecessary burden on the applicant.
6. Upon determination by the Zoning Administrator, in those cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and stormwater, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a building permit or minor site plan, a major site plan shall be required.
7. Information required to be included in a major site plan shall be as shown in Appendix A.
8. Major site plans shall be prepared and certified by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.
9. If such plans are prepared in more than one sheet, match lines shall clearly indicate where the several sheets join and an index sheet shall be required.
10. An appropriate number copies of all major site plans shall be submitted to the Department of Land Use and Development Services. Such Department may require that additional copies be provided when necessary.
11. The following procedure will be followed in the review of major site plans:
  - a. Upon receipt of the major site plan, the Department of Land Use and Development Services shall review such plan, soliciting comments from other departments, agencies, and officials as such office may deem appropriate. The entity responsible for the preparation of the site plan shall provide verification to the Department of Land Use and Development Services that all adjoining property owners to the subject property have been notified of the site plan submittal. Notification of adjoining property owners shall be made by certified mail and verification shall be made by presenting the return receipts to the County. The site plan shall be approved if it meets the requirements of this section, Appendix A,

other requirements of this Ordinance and all other Federal, State, and County regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.

- b.** Where the Department of Land Use and Development Services finds that, because of unusual circumstances of shape and topography or other features or conditions of the proposed development or because of the nature of adjacent development, extraordinary hardships may result from strict compliance with regulations including, but not limited to, frontages, setbacks or buffers, the Department of Land Use and Development Services may grant a modification of such regulations when requested by the developer. No such modification involving Critical Area Requirements is permitted inside the Chesapeake Bay Critical Area without review by the Chesapeake Bay Critical Area Commission. Nor shall any such modification be granted that will have the effect of nullifying the intent and purpose of the Comprehensive Plan, Subdivision Regulations, these regulations or any other pertinent rules, regulations or laws, of the County. In granting modifications, the Department of Land Use and Development Services may require such conditions as will, in its judgment, secure substantially the objectives of the standards of the requirements so waived or modified. Any modification of these regulations for a particular development shall be noted on the final site plan and appear in the records of the Department of Land Use and Development Services.

**12.** Construction of required improvements.

- a.** Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Department of Land Use and Development Services.
- b.** After construction has been completed, inspection of site improvements shall be made by the departments certifying to the applicable requirements as shown on the site plan. The applicant shall then secure a certificate of occupancy before use of the site may commence.
- c.** For manufactured home parks, multi-family development, and campgrounds, the approved site plan shall be recorded in the office of the Clerk of the Court. Prior to such recordation a Public Works Agreement guaranteeing construction of required improvements shall be executed between the developer and the County through the Department of Public Works.



- d. The installation of improvements as set forth in this Ordinance shall not bind the County to accept such improvements for the maintenance, repair and operation thereof; requirements for said improvements shall be in addition to (and not in lieu of) any other legal requirements.

**13. Expiration and Extension**

- a. Approval of site plans shall be for a three (3) year period and shall expire at the end of such period unless building construction has begun.
- b. Upon written request by the applicant, within thirty (30) days prior to the expiration of said approval, a two (2) year extension may be given by the Department of Land Use and Development Services.
  - (1) Said approvals shall not be granted for Site Plans that are for component parts (e.g., club houses and community centers) of subdivisions for which the Concept or any Preliminary approvals have expired.
- c. Such request shall be acknowledged and a decision rendered thereon not more than thirty (30) days after filing of said request.

**14. The County Council shall establish fees for the review of site plans.**

**Section 292. Property Disclosure and Hold Harmless Statement**

Prior to the issuance of a building permit for landlocked property or property lacking public water or sewer lines along its frontage, the following document shall be signed by the property owner(s):

**PROPERTY DISCLOSURE AND HOLD HARMLESS STATEMENT**

THIS DISCLOSURE AND HOLD HARMLESS STATEMENT CONCERNS REAL PROPERTY LOCATED IN CECIL COUNTY, MARYLAND, DESCRIBED AS \_\_\_\_\_ THIS STATEMENT IS DISCLOSURE THAT THE SUBJECT PROPERTY DOES NOT HAVE FRONTAGE ON A PUBLICLY MAINTAINED

ROAD. THIS STATEMENT IS A DISCLOSURE THAT THE SUBJECT PROPERTY DOES NOT HAVE PUBLIC WATER OR SEWER LINES AVAILABLE AT ITS FRONTAGE.

PROPERTY OWNER'S INFORMATION

You are hereby advised that it is the property owner's responsibility to obtain right-of-way along paper street(s) to gain access to the public road and you are further advised that this is a private matter between the landlocked property owner and the owner(s) of the paper street or property between the subject property and the public road. Affixing the property owner's signature acknowledges the aforesaid notification and holds the County harmless for the issuance of a building permit for the subject property.

You are hereby notified that it is the property owner's responsibility to obtain right-of-way along paper street(s) to gain access for the water and sewer lines and you are further notified that it is a private matter between the landlocked property owner and the owners(s) of the paper street and/or property between the subject property and the public water and sewer lines. Affixing the property owner's signature acknowledges the aforesaid notification and holds the County harmless for the issuance of a building permit for the subject property. The property owner further agrees that any interim septic system will be abandoned when the public sewer is extended and the interim well will be abandoned and sealed when the public water system is extended.

I HAVE READ THIS DISCLOSURE STATEMENT AND HOLD HARMLESS AGREEMENT AND I ACKNOWLEDGE AND AGREE TO THE STATEMENTS CONTAINED HEREIN.

\_\_\_\_\_

Date

\_\_\_\_\_

Property Owner

**Section 293. Reserved**

**Section 294. Reserved**

## **ARTICLE XVI ADMINISTRATIVE MECHANISMS**

### **Part I Planning Commission**

#### **Section 295. Planning Commission Established**

- 1.** Pursuant to and in conformance with the provisions of Article 66B & Article 25A, 5(x), Code of Public General Laws of Maryland, a Planning Commission is hereby established. The Commission shall consist of six (6) members plus an alternate who shall serve in the absence of a regular member, and a member of the County Council, which member shall serve as an ex-officio, non-voting member. In the appointment of members of the Planning Commission, the County Executive shall solicit and consider recommendations from the County Council; such appointments are subject to confirmation by the Council. Prior to assuming their duties, new members of the Planning Commission shall be required to read and understand applicable County laws and regulations, including the Cecil County Comprehensive Plan, Zoning Ordinance, and Subdivision Regulations. The appointment of Planning Commission members by the Executive shall be approved by the County Council.
- 2.** Each Planning Commission member, including the alternate, shall serve three (3) year terms. The terms of the ex-officio member shall run concurrent with his or her term of office. Vacancies occurring during a member's term shall be filled by appointment by the County Executive for the unexpired portion of the term.
- 3.** Planning Commission members, including the alternate, shall be residents of Cecil County.
- 4.** The Commission shall meet monthly and at other times at the call of the Chairman. The Department of Land Use and Development Services shall be represented at all meetings of the Planning Commission, and shall provide such staff support as may be required by the Commission. Four voting members of the Commission shall constitute a quorum. A minimum of three (3) members voting shall be required to effect a decision of the Commission.
- 5.** Meetings of the Commission shall be conducted in accordance with Roberts Rules of Order. Staff from the Department of Land Use and Development Services shall be present during all deliberations by the Planning Commission and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but such staff shall not participate in the decision of the Commission beyond the submitting of a staff recommendation as to the action proposed to be taken in each case. The Commission may establish such other rules of procedure as deemed necessary, consistent with this Ordinance.

6. The deliberations of the Planning Commission shall be open to the public, but public participation shall be limited to periods during which testimony is permitted. Minutes shall be kept of all Planning Commission proceedings.
7. The Commission shall elect a Chairman from among the six (6) regular members. The term of Chairman shall be one (1) year, with eligibility for reelection.
8. A member of the Planning Commission may be replaced by the County Executive if such member fails to attend three (3) or more consecutive meetings of the Commission, or more than six (6) regular meetings in any calendar year.
9. The Planning Commission shall have the following powers and duties:
  - a. Review, evaluate, and approve or disapprove plans for subdivisions in accordance with this Ordinance and the Cecil County Subdivision Regulations;
  - b. Review and make recommendations to the County Council regarding:
    - (1) Proposed changes or amendments to the Cecil County Comprehensive Plan.
    - (2) Proposed amendments to the Cecil County Chesapeake Bay Critical Area Program.
    - (3) Proposed amendments to the Cecil County Zoning Ordinance.
    - (4) Proposed acquisition and development of lands for open space or recreation purposes.
    - (5) Proposed designation of historic sites or districts.
    - (6) Proposed changes or amendments to the County Subdivision Regulations.
    - (7) Proposed changes or amendments to the Cecil County Road Code.
    - (8) Proposed changes or amendments to the Cecil County Master Sewer and Water Plan.
    - (9) Proposed changes in land use or development arising from state or federal programs or policies.
    - (10) Proposed amendments to the Cecil County Forest Conservation Regulations.
    - (11) Annual review of the Capital Improvement Program.

- c. Make recommendations to the Board of Appeals regarding applications for special exceptions.

10. Appeals of Planning Commission decisions shall be taken to the Circuit Court.

**Section 296. Advisory Committees**

1. From time to time, the County Executive may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the County Executive may appoint advisory committees to consider such things as the comprehensive development plan, zoning ordinance, economic development plans, etc. Executive appointments shall be approved by the County Council.
2. Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered and lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations to the County Executive shall be made by the Planning Commission.
3. Nothing in this section shall prevent the County Executive from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the County Executive.

**Section 297. Technical Advisory Committee**

The Planning Commission shall organize a Technical Advisory Committee composed of staff members of the Department of Land Use and Development Services, the Public Works Department, the State Highway Administration, County Health Department, Board of Education, County Soil Conservation Department, Chesapeake Bay Critical Area Commission, Maryland Department of Planning, and any other department or agency concerned with development; as well as a citizen at-large to be designated by the County Executive along with representatives of the local utility companies and the County Home Builders Association to assist developers in getting information and technical assistance in the review of development proposals. The authority granted the Technical Advisory Committee shall be as specified in the Cecil County Subdivision Regulations.

## **Part II Board of Appeals**

### **Section 298. Board of Appeals Established**

- 1.** Pursuant to Article 25A, Section 5(u) & Article 66B, Code of Public General Laws of Maryland, a Board of Appeals is hereby established, which shall consist of five (5) members to be appointed by the County Executive and be approved by the County Council.
- 2.** The County Executive shall designate one (1) alternate member for the Board of Appeals, who shall sit on the Board in the absence of any member of the Board.
- 3.** The terms of any existing Board of Appeals members duly appointed under the terms of a previous Zoning Ordinance shall continue for the duration of that term. Each member, including the alternate, shall serve three (3) year terms. Vacancies shall be filled by appointment by the County Executive for the unexpired portion of the term. The Board shall elect one (1) of its five (5) regular members as Chairman, whose term as Chairman shall be three (3) years. A member of the Board of Appeals may be replaced by the County Executive if such member fails to attend three (3) or more consecutive meetings of the Board, or fails to attend six (6) meetings in any calendar year.
- 4.** Board of Appeals members, including the alternate, shall be residents of Cecil County.
- 5.** The Board of Appeals shall have the following powers and duties:
  - a.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this ordinance.
  - b.** To hear and decide special exceptions as provided in Article XVII, Part II of this Ordinance.
  - c.** To authorize upon application a variance from the provisions of this Ordinance, as provided in Section 306 herein.

In exercising the above powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination which has been appealed from, to the extent that such action is consistent with the provisions of this Ordinance. The applicant for a special exception or variance and the appellant in an appeal shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.

- 6.** Proceedings of the Board of Appeals.

- a. Meetings of the Board of Appeals shall be held monthly and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- b. Staff from the Department of Land Use and Development Services shall be present during all deliberations by the Board of Appeals and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but such staff shall not participate in the decision of the Board beyond the submitting of a staff recommendation as to the action proposed to be taken in each case.
- c. The Board of Appeals shall adopt such other rules of procedure as it deems appropriate provided such rules are consistent with the provisions of this Ordinance and with applicable State enabling legislation.
- d. The Board of Appeals shall keep documentation of its proceedings, showing the vote of each member upon question, or if absent or failing to vote indicating such fact, and shall keep records of its official actions.
- e. The deliberations of the Board of Appeals shall be open to the public, but public participation shall be limited to periods during which testimony is permitted.

**7. Quorum and Voting.**

- a. Three (3) members of the Board shall constitute a quorum for the conducting of business.
- b. A minimum vote of three (3) members of the Board shall be required to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any manner upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

**8. Hearings, Appeals, Notices.**

- a. Appeals to the Board of Appeals shall be filed within fifteen (15) days of the signing of the decision from which the appeal is taken. Appeals shall be filed with the Department of Land Use and Development Services and shall specify the grounds thereof. The Department of Land Use and Development Services shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed was taken.
- b. The Board of Appeals shall fix a reasonable time for the hearing of appeals and requests for variances and special exceptions, give public notice thereof as well as due notice to the parties in interest, and hold the public hearing within sixty (60) days from the date of request of appeal notice was filed. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. At the hearing, any party may appear in person or by agent or attorney. The Board shall then decide the matter within thirty-five (35) days from the time of hearing, such decision to become effective as of the date the

decision is signed by the Chairman of the Board of Appeals or his designee; provided, however, that no application may be withdrawn once a hearing has begun before the Board concerning any such application.

### **Part III Other Administrative Provisions**

#### **Section 299. Zoning Administrator**

1. The administration and enforcement of the provisions of this Ordinance shall be, except as otherwise specified in this Ordinance, within the scope of responsibility of the Director, Department of Land Use and Development Services. Within this Department, there is hereby established the position of County Zoning Administrator. The Director, Department of Land Use and Development Services shall recommend a person to fill the position of County Zoning Administrator and the County Executive shall appoint a person to this position.
2. The Zoning Administrator shall be a regular County employee. He shall perform such duties and responsibilities in the administration and enforcement of this Ordinance as are hereinafter set forth, and such other duties as may be assigned by the Director.
3. The Zoning Administrator may be provided with such assistance in the carrying out of his responsibilities under this Ordinance as may be sanctioned by the County Executive.
4. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; he shall order discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions, including the issuance of Stop Work Orders.
5. He shall be empowered to enter properties and make inspections to determine compliance with this Ordinance; and shall, pursuant to such duties, have the right to apply for and receive search warrants when they may be necessary to carry out his duties.
6. It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, that he shall render a decision thereon, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator.



7. The Zoning Administrator, or his representative, shall be required to attend all proceedings of the Planning Commission, Board of Appeals, and County Council, at which matters of zoning are considered. He shall advise the Planning Commission on zoning matters related to the review, amending, or implementation of the Comprehensive Plan, on zoning implications of subdivision review, and on other matters as appropriate.
8. He shall issue Zoning Certificates, shall maintain records of all permits issued under this Ordinance, and shall maintain other records pertaining to this Ordinance including zoning maps, amendments, variances, conditional uses, appeals, and decisions. He shall receive and keep records of written complaints of violations of this Ordinance, shall investigate and verify all such complaints, and shall take appropriate action regarding complaints without undue delay.

**Section 300. County Council**

1. The County Council is the local elected legislative body. The County Council's primary responsibility relative to this Ordinance shall be to make final decisions on zoning amendment applications. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Article XVII, Part IV.
2. The County Executive shall make all appointments to the Boards and Commissions identified in this Ordinance. All appointments shall be approved by the County Council.

**Section 301. Fees and Charges**

The County Council shall establish a schedule of fees, charges, and expenses and a collection procedure, for zoning certificates, building permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the offices of the Zoning Administrator and may be altered or amended only by the County Council, upon recommendation of the Department of Land Use and Development Services.

**Section 302. Legal Counsel**

The County Executive shall appoint legal counsel to the Board of Appeals and Planning Commission. Said legal counsel shall be present at all meetings as necessary to give such legal advice as needed and as directed by the Commission or Board Chairman.

**Section 303. Reserved**

**Section 304. Reserved**

**ARTICLE XVII APPEALS, VARIANCES, INTERPRETATIONS, SPECIAL EXCEPTIONS, AMENDMENTS  
AND PROCEDURES**

**Part I Appeals, Variances and Interpretations**

**Section 305. Appeals**

1. An appeal from any final order or decision of the Zoning Administrator, excluding subdivision approvals, may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing with the Zoning Administrator and the Board of Appeals a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the Zoning Administrator and the Board of Appeals when delivered to the Department of Land Use and Development Services and when the application fee is paid. The date and time of filing shall be entered on the notice by the Zoning Administrator or other staff members.
2. An appeal must be filed within fifteen (15) days after the date of the Planning Commission decision or Zoning Administrator's decision.
3. Whenever an appeal is filed, the Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.

**Section 306. Variances**

1. Variances, as defined in Article II, may be granted by the Board of Appeals. In addition, due to special features of a site or other circumstances where a literal enforcement of provisions relating to the Critical Area District would result in unwarranted hardship to a property owner, the Board of Appeals may grant a variance of the Critical Area District. An unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
2. The Board shall examine all facts of the case and render a decision based on the following criteria:
  - a. The variance request is based on a situation where, because of special conditions, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

- b. Special conditions and circumstances exist that are peculiar to the land, building or structure involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.
- c. The granting of the variance will not confer on the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.
- d. The variance request does not arise from any condition related to land or building use, either permitted or non-conforming, on any neighborhood property.
- e. Variance requests in the Critical Area District shall not be granted unless the decision is based on the following additional criteria:
  - (1) Special conditions or circumstances exist that are unique to the subject property or structure and a strict enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas (i.e., IDA, LDA, RCA) of the Critical Area.
  - (2) Strict enforcement of the provisions within the Critical Area District would deprive the property owner of rights commonly shared by other owners of property in similar management areas within the Critical Area District.
  - (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Critical Area District.
  - (4) The variance request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
  - (5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01.
  - (6) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

- 3.** A variance in the Critical Area District will not be granted by the Board of Appeals unless and until:
- a.** A completed application form for a variance is submitted that demonstrates the applicability of the above criteria. In addition, requests for variance in the Critical Area District shall not be heard unless the state's Critical Area Commission has received a copy of the variance request prior to the scheduled public hearing.
  - b.** The Board of Appeals shall find that the reason set forth in the application justifies the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structures. In making this determination for variance requests in the Critical Area District, the Board of Appeals shall consider the following as tantamount to a minimum variance:
    - (1)** The granting of a variance to the yard and/or Buffer requirements results in new structures or impervious surfaces being located as far back from Mean High Water Line, tidal wetlands, or tributary streams in Critical Area as is feasible; and
    - (2)** The applicant takes steps to mitigate impacts, insofar as possible, including:
      - i.** Reforestation on the site to offset disturbed forested or developed woodlands on at least an equal area basis;
      - ii.** Afforestation of areas of the site so that at least fifteen (15) percent of the gross site is forested; and,
      - iii.** Implementation of any mitigation measures that relate to Habitat Protection Areas, Threatened or Endangered Species, or Species in Need of Conservation, and Plant and Wildlife Habitats, as delineated in the Cecil County Critical Area Program, recommended by state and/or County agencies, are included as conditions of approval.
    - (3)** The Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, shall not result in a use not permitted in the zone in which the property subject to variance is located, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
    - (4)** For variances in the Critical Area District, the Board of Appeals shall find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and the Cecil County Critical Area Program shall not result in a use not permitted in the management area (i.e., IDA, LDA, RCA) or

an increase in the number of permitted dwelling units (i.e., density limits) in which the property subject to the variance is located, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (5)** In addition and to the extent possible based on best available information, all property owners immediately contiguous to the application shall be notified by mail and furnished a copy of the said application.
  
- c. In granting a variance, the Board of Appeals may prescribe such conditions and safeguards as it deems appropriate that comply with the intent of this Ordinance and the Cecil County Critical Area Program. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 340 of this Ordinance.
  
- d. In considering an application for a variance, the County shall presume that specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the County's Critical Area Program.
  
- e. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including commencement of development activity before an application for a variance has been filed, the County may consider that fact.
  
- f. An applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph d above.
  
- g. Based on competent and substantial evidence, the County shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established above.
  
- h. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

  - (1) The applicant;
  
  - (2) The County or any other government agency; or

(3) Any other person deemed appropriate by the County.

## **Part II           Special Exceptions**

### **Section 307.   Initiation of Special Exceptions**

1.     The intent of this Article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
2.     The granting of a special exception does not exempt the applicant from complying with all other requirements of this Ordinance or of the law.
3.     Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

### **Section 308.   Application for Special Exception**

Such application for special exception shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Administrator to the Board of Appeals for review and decision in accordance with the Department of Land Use and Development Services' submission deadlines and scheduling policies.

### **Section 309.   Hearing on Application**

1.     The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings and official action shall be preserved in the minutes of verbatim transcript taken by the Board of Appeals.
2.     Notice is required as provided in Section 317.

**Section 310. Authorization**

For each application for a special exception, the Board of Appeals shall normally, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

**Section 311. Standards - General**

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.
4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.
5. The use shall not adversely affect critical natural areas or areas of ecological importance.
6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.
7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (Schultz v. Pritts, 291 MD.1)
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

**Section 312. Conditions and Guarantees**

1. In granting any special exception, the Board of Appeals may prescribe such conditions and safe guards, including but not limited to time limitations, as it may deem appropriate which conform to the intent of this Ordinance and the Comprehensive Plan.
2. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and punishable under Section 314 or 340 of this Ordinance at the discretion of the Zoning Administrator.
3. The Board of Appeals may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall render the special exception null and void.

**Section 313. Approval of Special Exceptions**

A special exception shall not be granted by the Board of Appeals unless and until:

1. A completed application form for a special exception is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. The Department of Land Use and Development Services and the Planning Commission have reviewed the application and stated their recommendations to the Board.
3. Where requested or required by the Department of Land Use and Development Services, the applicant has obtained written comments on the application from other agencies.
4. The public hearing shall be held and notice of hearing shall be given as per Section 317.
5. Any party may appear in person, or by agent or attorney.
6. The Board of Appeals shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
7. The decision of the Board on a special exception shall be effective as of the date such decision is signed by the Chairman of the Board of Appeals or his designee; provided, however, that no application may be withdrawn once a hearing has begun before the Board with regard to any application submitted to the Board.



**Section 314. Revocation**

1. Failure to Comply with Conditions. Whenever the Zoning Administrator shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with the Zoning Administrator shall notify the Board of Appeals and all parties concerned. The Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such County or state agencies or administrative officers as may be appropriate.
  
2. Abandonment. Whenever the Zoning Administrator shall determine that a Special Exception appears to have been abandoned, the Zoning Administrator shall notify the Board of Appeals. Upon receipt of such notice the Board shall review the Zoning Administrator's determination at a public hearing. Notice thereof shall be given to the parties to whom the Special Exception has been granted and to all parties who would be entitled to receive notice of a new application for Special Exception concerning the property. The applicant shall show cause why the Special Exception shall not be revoked. The Board shall decide the matter and issue an opinion.

**Section 315. Pre-existing Special Exception Use**

1. Special exceptions granted by the Board of Appeals under the previous zoning ordinance shall continue in effect under this Ordinance only to the extent they are permitted as special exceptions under this Ordinance.
  
2. Where such previously granted special exceptions are not permitted as special exceptions under this Ordinance, such uses shall be considered as non-conforming uses.
  
3. A legal use existing at the time of adoption of this Ordinance, even though such use requires a special exception under this Ordinance, shall after adoption of this Ordinance be considered a non-conforming use. However, if such use ceases to exist for a period of ninety (90) consecutive days, any future use shall conform to the provisions of this Ordinance.

## **Part III Hearing Procedures for Appeals, Variances, Special Exceptions or Petitions of Revocation**

### **Section 316. Hearing Required on Appeals and Applications**

- 1.** Before making a decision on an appeal or an application for a variance, special exception, or a petition from the Zoning Administrator or Director of Land Use and Development Services to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application in accordance with its policies for submission deadlines and scheduling.
- 2.** Subject to Subsection 3, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- 3.** The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- 4.** The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

### **Section 317. Notice of Hearing**

The Administrator shall give notice of any hearing required in Section 316 as follows:

- 1.** Notice shall be given at least fifteen (15) days in advance of public hearing. Notice of such hearings shall be posted on the subject property and at the County Administration Building, and notice shall be published in a newspaper of general circulation in the County, at least fifteen (15) days prior to the public hearing.
- 2.** Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice before the hearing.
- 3.** To the extent possible based on best available information, all property owners immediately contiguous to the application shall be notified by mail and furnished a copy of the said application.
- 4.** The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

**Section 318. Evidence**

1. The provisions of this section apply to all hearings for which a notice is required by Section 316.
2. All persons who intend to present evidence to the Board, shall be sworn.
3. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

**Section 319. Modification of Application at Hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator.

**Section 320. Record**

Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the County.

**Section 321. Written Decision**

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and provided to the applicant or appellant and all other persons who make a written request for a copy.
2. In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall include an opinion that states the Board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

#### **Part IV Amendments**

##### **Section 322. Amendments In General**

1. The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed, provided however, that no such action may be taken until after the County Council shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.
2. Any application for a Comprehensive Plan or zoning amendment shall contain specific information setting forth the basis for the granting of the request.
3. Amendments affecting the Chesapeake Bay Critical Area shall be in conformance with Article XI, Part I, Section 203 and all applicable State rules and regulations.

##### **Section 323. Initiation of Amendments**

1. Proposed amendments may be originated by the Department of Land Use and Development Services, the Planning Commission, the County Council, or the owner(s) of the property(s) for which a zoning change is sought.
2. Proposed amendments shall first be submitted to the Department of Land Use and Development Services. The applicant shall then present the proposed amendment for review by the Planning Commission which shall submit its recommendations to the County Council for a public hearing.

##### **Section 324. Hearing Required; Notice**

1. All public hearings shall be conducted in accordance with the provision of Article 66B, Section 4.04, Annotated Code of Maryland. Specifically, the following procedures shall apply:
  - a. The County shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, modified or repealed. However, a regulation, restriction, or boundary may not become effective until at least one (1) public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard and the signing of the amendment by the County Council. Notwithstanding the foregoing, once a hearing has begun with regard to said amendment, supplementation, or modification, said request for amendment, supplementation, or modification may not be withdrawn.
  - b. At least fifteen (15) days prior to the hearing, notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County, and posted on any property proposed to be rezoned. In addition and to the extent possible based on best available information, all property owners immediately abutting to the application shall be notified by mail and furnished a copy of the said application.

**Section 325. Planning Commission Consideration of Proposed Amendments**

1. The Planning Commission shall consider the application and shall conduct a public hearing regarding the application. The public hearing shall be conducted as follows:
  - a. The applicant shall be given ample time to present his case to the Planning Commission. In so doing the applicant may call on expert witnesses to support his request.
  - b. The Zoning Administrator shall present a staff report representing a review of the application.
  - c. The Planning Commission shall ask such questions of either the applicant, any witnesses, or the staff as may be necessary in deciding its approval, denial, tabling, or continuance of the application.
  - d. The Public shall be given an opportunity to testify or ask questions of the applicant, his witnesses, or the staff of the Department of Land Use and Development Services. The Planning Commission may in turn question those testifying and may place a reasonable time limit for such testimony.

2. Within sixty (60) days from the Planning Commission's final hearing on the application, the Planning Commission shall transmit the application to the County Council together with its recommendations for approval or disapproval. The Planning Commission shall concurrently transmit this information to the applicant.
3. The Planning Commission's formal recommendation on the application shall be presented to the County Council at the hearing on the application.

**Section 326. County Council Action on Amendments**

1. Before approving or disapproving any application for amendment, the County Council shall hold at least one (1) public hearing in relation to the application, at which parties in interest and citizens shall have an opportunity to be heard.
2. The County Council shall hold a public hearing within sixty (60) days after receipt of the Planning Commission's recommendation.
3. In any action by the County Council to amend this Ordinance, the Zoning Administrator shall be present during all deliberations by the Council and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but the Zoning Administrator shall not participate in the decision of the Council beyond the submitting of a recommendation from the staff and from the Planning Commission as to the action proposed to be taken in each case.
4. In evaluating the proposed amendment, the County Council shall make findings of fact in each specific case, including but not limited to the following matters, where applicable:
  - a. Population changes
  - b. Availability of public facilities
  - c. Present and future transportation and traffic patterns, character, and volume
  - d. Compatibility with existing and proposed developments in the area
  - e. Compatibility with the intent of the Comprehensive Plan
  - f. Compatibility with the purposes of any Special District in which the area requested to be rezoned is located.

The County Council may grant the amendment on a determination that there was a substantial change in the character of the neighborhood where the property is located, or that there was an error or mistake in the existing zoning regulations.

5. In the granting of any amendment pursuant to this Ordinance, County Council shall solicit and consider the recommendations of the Department of Land Use and Development Services and those of the Planning Commission.
6. An amendment whereby any tract of land is rezoned shall allow for any uses that are permitted in that zone.
7. An application for Zoning Amendment shall not be accepted by the Zoning Administrator if the application is for a Zoning Amendment of the whole or any part of land which has been denied by the County Council until twelve (12) months from the date of denial.
8. The applicant for a zoning amendment shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.
9. The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final decision of the County Council. The record shall be open to public inspection and shall be maintained in the Department of Land Use and Development Services.
10. The County Executive shall approve or veto the decision of the Council within 10 days of receipt of the amendment. If no action is taken within the 10 day period, the amendment will be deemed approved.

**Section 327. Reserved**

**Section 328. Reserved**

**ARTICLE XVIII NONCONFORMING SITUATIONS**

**Section 329. Intent**

It is the intent of this ordinance that lots, uses, or structures existing at the time of adoption of this ordinance or amendments thereto, and which are rendered non-conforming by such adoption, shall be permitted to continue until removed or abated, but shall not be encouraged to survive. Accordingly, such non-conformities shall not be enlarged, expanded, or extended. Further, if any such non-conformity ceases to exist for a period of ninety (90) days any subsequent use shall conform to the regulations for the zone in which the property is located. In cases where structures are damaged or destroyed by accident or natural causes, such period shall be one (1) year. Nonconforming dwelling units, including structures accessory thereto may be expanded provided that said expansion does not encroach or increase encroachment across any established setback line.

**Section 330. Continuation of Nonconforming Situations and Completion of Nonconforming Projects**

Unless otherwise specifically provided in this Ordinance and subject to the restrictions and qualifications set forth in Sections 331 through 334, nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued.

**Section 331. Nonconforming Lots**

The following regulations shall apply to all lots of record which were existing prior to the effective date of this ordinance:

1. A dwelling unit may be erected in any zone permitting such residences on any lot of record, excluding agriculture transfers and add-ons, existing as of the date of adoption of this ordinance, even though such lot may not meet the requirements of this ordinance with respect to minimum lot size, width or depth, or maximum density, provided that all other regulations are met. In the case of such lots, the minimum yard requirements shall be determined by the Zoning Administrator based on the prevailing characteristics in the surrounding neighborhood for front and rear yards; for side yards, the minimum set back shall be five (5) feet.
2. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no principal building upon it or if there is a principal building upon it which is physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition.
3. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but



not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

**Section 332. Extension or Enlargement of Nonconforming Situations**

1. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - a. An increase in the total amount of space devoted to a nonconforming use, or
  - b. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking requirements.
2. A nonconforming situation may be altered to decrease its nonconformity.

**Section 333. Repair, Maintenance, Reconstruction**

1. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Work may be done only in accordance with a zoning certificate issued pursuant to this section.
2. The Zoning Administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:
  - a. No violation of Section 332 will occur, and
  - b. The permittee will comply to the extent reasonably possible with all provisions of this Ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

**Section 334. Abandonment and Discontinuance of Nonconforming Situation**

When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the ninety (90) consecutive day period for purposes of this section begins to run on the effective date of this Ordinance.

**Section 335. Reserved**

**Section 336. Reserved**

## **ARTICLE XIX ENFORCEMENT AND REVIEW**

Building permits or zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

### **Section 337. Complaints Regarding Violations**

Whenever the Zoning Administrator receives a complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

### **Section 338. Persons Liable**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person(s) who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### **Section 339. Procedures Upon Discovery of Violations**

1. Upon the finding by a zoning official that any provision of this Ordinance is being violated, the zoning official shall immediately send written notice to the person responsible for such violation, including the property owner(s), advising them of the nature of the violation and the action necessary to correct such violation. Such notice shall also advise that the decision of the zoning official may be appealed to the Board of Appeals in accordance with Section 305.
2. The zoning official may deliver a citation to a person believed to be committing a civil zoning violation. A copy of the citation shall be retained by the zoning official and shall bear certification attesting to the truth of the matters set forth. The citation shall contain:
  - (a) The name and address of the person charged;
  - (b) The nature of the violation;
  - (c) The place and time where the violation occurred;
  - (d) The amount of the fine assessed;

- (e)** The manner, location, and time in which the fine may be paid; and
  - (f)** The person's right to elect to stand trial for the violation.
  
- 3.** A pre-set fine, not exceeding \$500.00 may be imposed for each violation. Each day on which the violation continues shall constitute a separate offense.
  
- 4.** If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the owner's last known address. If the citation is not satisfied within 15 days from the date of the notice, the person is liable for an additional fine equal to twice the amount of the original preset fine. If, after 35 days, the citation is not satisfied, the zoning official may request adjudication of the case through the District Court.
  
- 5.** Enumeration of violations and pre-set fines - an act or conduct referred to in this subsection is a civil zoning violation:
  - a.** An act which violates any covenant or condition of any approval given by the Planning Commission or Board of Appeals under this section or any prior Ordinance - Fine \$500.00.
  - b.** An act which constitutes the continuance of a nonconforming use or structure after the time when this Ordinance requires that such use be terminated or discontinued. Fine \$250.00.
  - c.** An act which constitutes the enlarging, extending or expanding of a nonconforming use or structure in a manner not authorized by this Ordinance. Fine \$250.00.
  - d.** An act for which rezoning, special exception or variance is required, which is done without making application for and obtaining such permission as required by this Ordinance. Fine \$500.00.
  - e.** Making a materially false writing on any application required by this Ordinance, knowingly making false or incomplete representations to the Boards, misrepresenting actions by other government entities. Fine \$100.00.
  - f.** Willfully using a property for any purpose or in any manner which could not be authorized by a Zoning Certificate. Fine \$250.00.
  - g.** Willfully providing false or incorrect information to zoning authority in connection with a determination of whether a use is legally non-conforming. Fine \$100.00.
  - h.** Any act not referred to in the preceding paragraphs of this subsection which involves the use of property in any manner which is prohibited by this Ordinance. Fine \$250.00.

**Section 340. Penalties and Remedies for Violations**

1. Violation of the provisions of this Ordinance, failure to comply with any of its requirements, or a person who commits or assists in the commission of any unlawful act is guilty of a criminal misdemeanor and subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or to imprisonment for not more than 90 days, or both fine and imprisonment. In addition the person or persons shall pay all costs and expenses as well as any fair and reasonable legal fees incurred as a result of said action being brought.
2. The procedure for the issuance of citations, collection of fines and trial with respect to disputed or unsatisfied citations shall be as prescribed in Section 7.02 of Article 66B of the Annotated Code of Maryland, as amended from time to time.
3. Nothing herein contained shall prevent the County from taking such other lawful actions as is necessary to prevent or remedy any violation. The persons liable, as defined by Section 338 herein, shall be required to pay any and all fair and reasonable costs and expenses incurred by the County in its enforcement of this Ordinance, including but not limited to, attorneys' fees incurred by the County.

**Section 341. Permit Revocation**

1. A zoning certificate or site plan may be revoked by the Zoning Administrator (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed.
2. Before a zoning certificate or site plan may be revoked, the Zoning Administrator shall give the recipient 10 days notice of intent to revoke the certificate or site plan and shall inform the recipient of the alleged reasons for the revocation. If the certificate is revoked, the Zoning Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.
3. No persons may continue to make use of land or buildings in the manner authorized by any zoning, or special exception after such permit has been revoked.

**Section 342. Computation of Time**

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that

day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

**Section 343. Judicial Review**

1. A decision of the Board of Appeals, and a decision of the County Council in the granting or denial of a zoning amendment may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure.
2. A decision of the Planning Commission may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure.

**Section 344. Reserved**

**Section 345. Reserved**

## APPENDIX A

### Information Required with Applications for Sketch Plans, Site Plans, Plot Plans, and Environmental Assessments

Item # and Description	Sketch Plat	Minor Site Plan	Major Site Plan	Plot Plan	Environmental Assessment
<b>I. PROJECT-PLAT INFORMATION</b>					
1. Name, address of owner, applicant	X	X	X	X	X
2. Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in document preparation	X	X	X		X Qualified Professional
3. Title block denoting name and type of application, tax map sheet, election district, block and lot, parcel, street location, and sheet number (if plan exceeds one sheet)	X	X	X	X	X
4. A key map at a specified scale showing location of tract with reference to surrounding properties, streets, landmarks, streams, etc.	X	X	X		X
5. Existing and proposed zoning of tract and adjacent property	X	X	X	X	X
6. North arrow and scale	X	X	X	X	X
7. Appropriate signature block for zoning administrator			X		
8. Appropriate certification blocks	X				
9. Monumentation	X		X		
10. One (1) of four (4) standardized sheets 30" x 42" 24" x 36" 18" x 24" 8.5" x 11" (plot plans only)	X	X	X	X	X
11. Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets	X		X		
12. Acreage of tract	X	X	X	X	X
13. Date of original and all revisions	X	X	X		X
14. Size, location, and height of any existing or proposed structures with all setbacks dimensioned	X (Approximate)	X	X	X	X

**X = Item required at indicated Development Stage shown in the column heading.**

## APPENDIX A

### Information Required with Applications for Sketch Plans, Site Plans, Plot Plans, and Environmental Assessments

Item # and Description	Sketch Plat	Minor Site Plan	Major Site Plan	Plot Plan	Environmental Assessment
15. Location and dimensions of any existing or proposed roads or streets (for Plot Plans general location)	X	X	X	X (Approximate)	X
16. All existing or proposed lot lines and area of lots in square feet or lot dimensions	X	X	X	X	X
17. Copy and/or delineation of any existing or proposed deed restrictions or covenants	X	X	X		
18. Any existing or proposed easement or land reserved for or dedicated to public use	X	X	X		X
19. Development stages or staging plans	X		X		X
20. List of required regulatory approvals or permits	X		X		X
21. List of variances required or requested	X	X	X		X
22. Requested or obtained design waivers or exceptions	X		X		X
23. Specific uses proposed	X	X	X	X	X
24. Any conditions or design standards required by the table of permissible uses (PC, SE, and SC)	X	X	X	X	X
25. Type of wastes or by-products to be produced and method of disposal of such waste	X	X	X		X
26. Payment of application fees	X	X	X	X	X
<b>II. SETTING-ENVIRONMENTAL INFORMATION</b>					
27. Adjacent property owners	X	X	X		X
28. All existing water courses, perennial streams, floodplain, wetlands, or other environmentally sensitive area on and within 200' of site	X	X	X		X
29. Existing rights-of-way and/or easements on and within 100' of tract	X	X	X		X
30. Topographical features of subject property	X	X	X		X
31. Existing and proposed contour intervals based on USC&GS or County data. Contours shall extend at least 100' beyond subject property.	X	X	X		X
32. Slope analysis areas >15 & 25% shall be shaded and identified as steep slopes	X	X	X		X

**X = Item required at indicated Development Stage shown in the column heading.**

## APPENDIX A

### Information Required with Applications for Sketch Plans, Site Plans, Plot Plans, and Environmental Assessments

Item # and Description	Sketch Plat	Minor Site Plan	Major Site Plan	Plot Plan	Environmental Assessment
33. Soils based on current Soil Survey	X		X		X
34. Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features (details may vary)	X		X		X
35. Forest Conservation Regulations – exemption or plan information	X	X	X		X
36. A 100 Year Flood Plain based on FEMA maps	X	X	X	X	X
37. Non-tidal wetlands delineation based on NWI maps or County Maps	X	X	X		X
38. Non-tidal wetlands identification based on field analysis		disturbed area only	disturbed area only	disturbed area only	X
39. Location of areas to be disturbed by construction and location of trees measuring greater than 12" in diameter at 4.5'			X		X
40. The location of Habitat Protection Areas on the site or within 1/4 mile in the case of bald eagle habitat	X		X		X
41. Location of all contiguous forested areas on the site and adjacent to the site	X		X		X
<b>III. IMPROVEMENTS AND CONSTRUCTION INFORMATION</b>					
42. Construction details as required by ordinance	X		X		X
43. Description, method and location of water supply and sewerage disposal facilities	X	X	X	X	X
44. Lighting plan and details			X		
45. Landscape plan and details			X		X
46. Landscape agreement and financial surety	X	X	X		X
47. Location, size, and type of all signs (site identification signs, traffic control signs, and directional signs)	X		X		
48. Vehicular and pedestrian circulation patterns (less detail necessary for Sketch Plat stages)	X		X		
49. Parking plan showing number of spaces, size, and type; aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions	X	X	X		

**X = Item required at indicated Development Stage shown in the column heading.**



## APPENDIX A

### Information Required with Applications for Sketch Plans, Site Plans, Plot Plans, and Environmental Assessments

Item # and Description	Sketch Plat	Minor Site Plan	Major Site Plan	Plot Plan	Environmental Assessment
50. Designated open space and/or planned recreational facilities	X		X		X
51. Areas of outdoor storage		X	X		
52. Other information as may be necessary to assure compliance with applicable regulations	X	X	X	X	X
53. Other information as may be necessary to obtain the approval of other regulatory agencies (i.e. Health, DPW, SHA, SCD, CBCAC, etc)	X	X	X	X	X

**X = Item required at indicated Development Stage shown in the column heading.**

## **Appendix B**

### **STANDARDS FOR BUFFERYARD DESIGN**

#### **B-1: Bufferyard Specifications**

The following illustrations graphically indicate the specifications for each type of bufferyard. Bufferyard specifications are stated in terms of the width of the bufferyard and the number of plant units required per one hundred (100) linear feet of bufferyard. The required bufferyard shall be one of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials recommended for a given bufferyard is determined given a change in the width of that yard.

The type and quantity of plant materials required for each type of bufferyard, and each bufferyard option, including berms, are specified in this section. Nothing in this section shall be construed so as to allow a lesser bufferyard type than that required in Article III and/or other articles of this Ordinance.

Afforestation or reforestation plantings required under the Cecil County Forest Conservation Regulations may occur in bufferyards provided such plantings meet the minimum requirements of the Forest Conservation Regulations and provided that the minimum planting requirements of this Ordinance are met.

The options within any bufferyard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as desirable are determined by the type(s) of soil present on the site. Each illustration depicts the total bufferyard located between two uses.

#### **B-2: Plant Material**

The following plant material substitutions may satisfy the recommendations of this section.

- (1) In bufferyards C, D, and E evergreen canopy trees may be substituted for deciduous canopy trees without limitation.
- (2) In bufferyards B evergreen canopy trees may be substituted as follows:
  - (a) In the case of deciduous canopy trees, up to a maximum of fifty (50) percent of the total number of the deciduous canopy trees otherwise required.
  - (b) In the case of deciduous understory, without limitation.

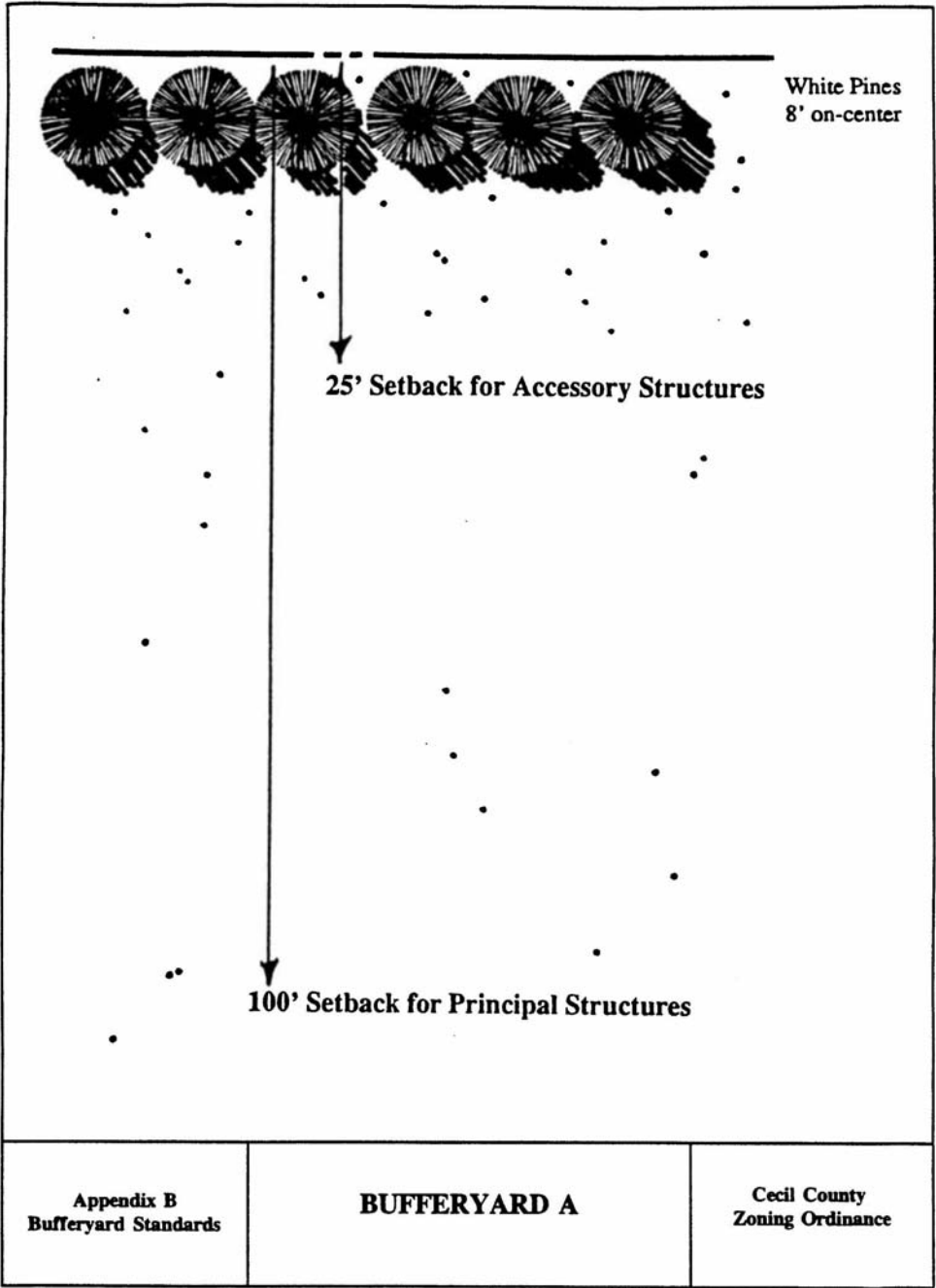
- (3) In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
- (4) In all bufferyards required of public service uses, the public service use may substitute evergreen canopy plant materials for deciduous canopy trees and understory plant materials, without limitation.

If the development on the adjoining parcel is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access. Any existing plant material which otherwise satisfies the requirements of this section should be used.

Although the exact placement of recommended plants and structures is the decision of each user the following is recommended:

- (1) Except as specified in Bufferyard A, evergreen or conifer plant materials should be planted in clusters rather than singly in order to maximize their chances of survival.
- (2) Berms (B<sub>1</sub>, B<sub>2</sub>, and B<sub>3</sub>) recommended with bufferyard D and E options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials.

All bufferyard areas should be seeded with lawn unless ground cover is already established.



Appendix B  
Bufferyard Standards

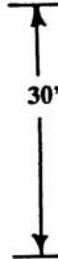
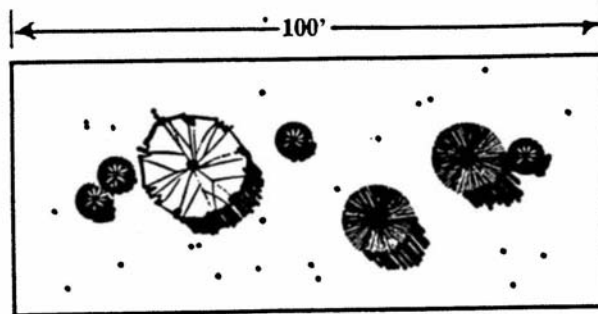
**BUFFERYARD A**

Cecil County  
Zoning Ordinance

**Plant Unit  
Multiplier**

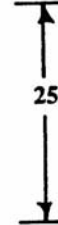
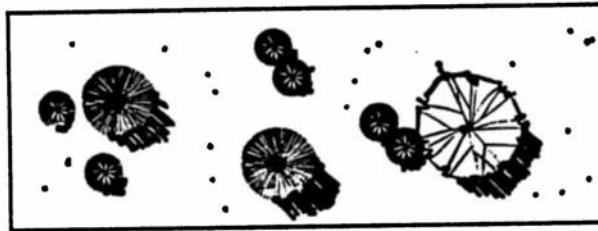
**Resulting Plant  
Units Required**

0.4



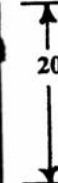
- 1 Canopy Tree
- 2 Understory Trees
- 4 Shrubs

0.6



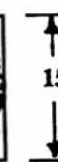
- 1 Canopy Tree
- 2 Understory Trees
- 6 Shrubs

0.8



- 2 Canopy Trees
- 3 Understory Trees
- 8 Shrubs

1.0



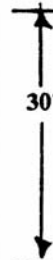
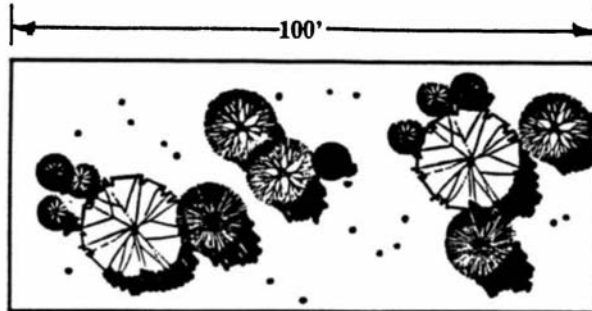
- 2 Canopy Trees
- 4 Understory Trees
- 10 Shrubs

Appendix B Bufferyard Standards	<b>BUFFERYARD B</b>	Cecil County Zoning Ordinance
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**Plant Unit  
Multiplier**

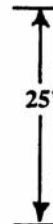
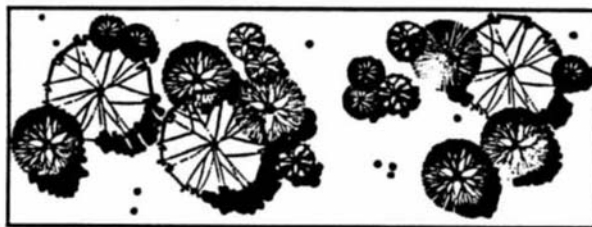
**Resulting Plant  
Units Required**

0.6



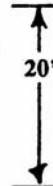
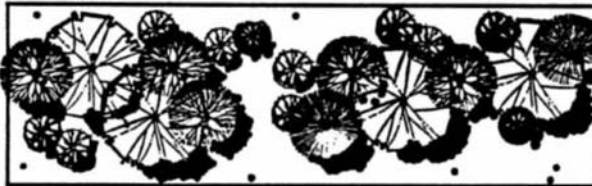
- 2 Canopy Trees
- 5 Understory Trees
- 7 Shrubs

0.8



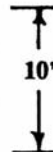
- 3 Canopy Trees
- 6 Understory Trees
- 10 Shrubs

0.9



- 4 Canopy Trees
- 7 Understory Trees
- 11 Shrubs

1.0

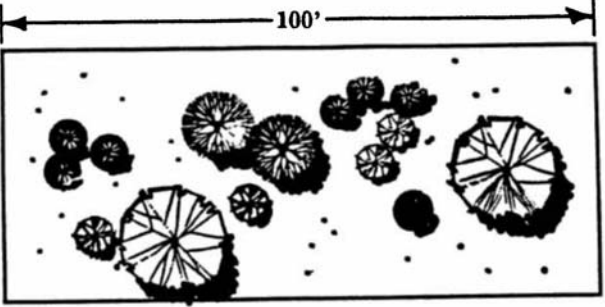
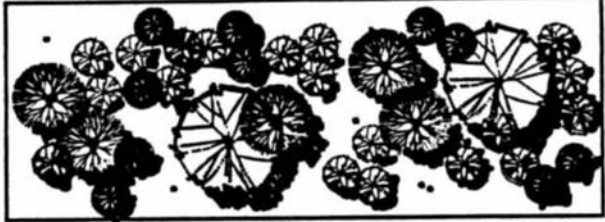
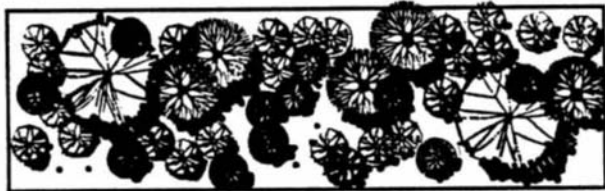
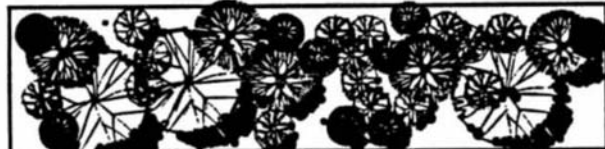



- 4 Canopy Trees
- 8 Understory Trees
- 12 Shrubs

<p>Appendix B Bufferyard Standards</p>	<p><b>BUFFERYARD C</b></p>	<p>Cecil County Zoning Ordinance</p>
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Plant Unit  
Multiplier

Resulting Plant  
Units Required

0.6	 <p>100'</p> <p>40'</p>	<ul style="list-style-type: none"> <li>2 Canopy Trees</li> <li>2 Understory Trees</li> <li>4 Shrubs</li> <li>7 Evergreens/Conifers</li> </ul>
0.8	 <p>30'</p>	<ul style="list-style-type: none"> <li>2 Canopy Trees</li> <li>5 Understory Trees</li> <li>19 Shrubs</li> <li>10 Evergreens/Conifers</li> </ul>
1.0	 <p>25'</p>	<ul style="list-style-type: none"> <li>4 Canopy Trees</li> <li>5 Understory Tree</li> <li>24 Shrubs</li> <li>12 Evergreens/Conifer</li> </ul>
.75	 <p>20'</p> <p>B1 Berm Required</p>	<ul style="list-style-type: none"> <li>3 Canopy Trees</li> <li>5 Understory Trees</li> <li>18 Shrubs</li> <li>9 Evergreens/Conifers</li> </ul>
.70	 <p>15'</p> <p>B2 Berm Required</p>	<ul style="list-style-type: none"> <li>3 Canopy Trees</li> <li>4 Understory Trees</li> <li>17 Shrubs</li> <li>8 Evergreens/Conifers</li> </ul>

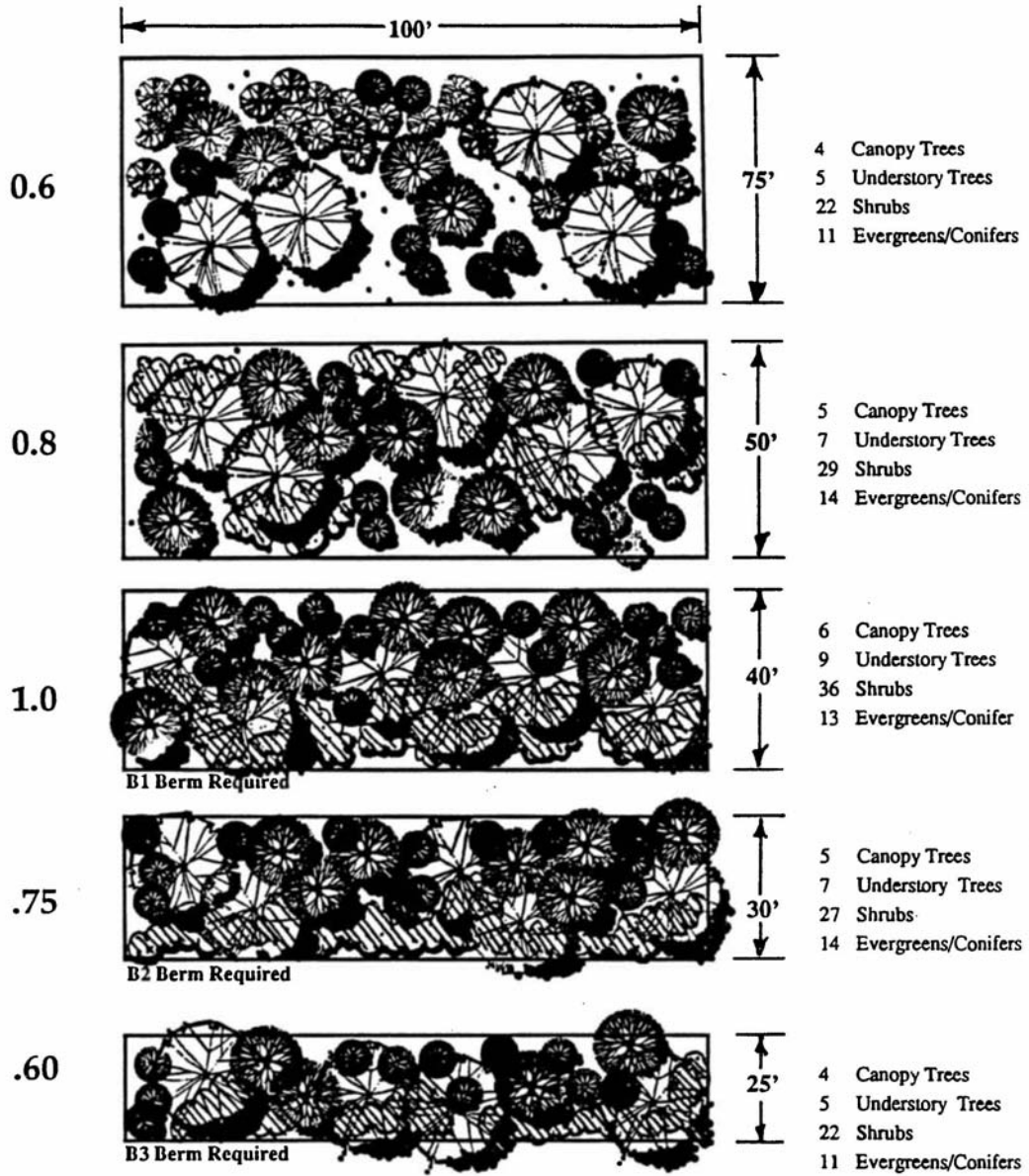
Appendix B  
Bufferyard Standards

**BUFFERYARD D**

Cecil County  
Zoning Ordinance

**Plant Unit  
Multiplier**

**Resulting Plant  
Units Required**



<p><b>Appendix B Bufferyard Standards</b></p>	<p><b>BUFFERYARD E</b></p>	<p><b>Cecil County Zoning Ordinance</b></p>
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**BERMS**



**SYMBOL**

**HEIGHT**

**MATERIAL**

B1  
B2  
B3

4'  
5'  
6'

EARTH  
EARTH  
EARTH

Appendix B  
Bufferyard Standards

**BUFFERYARD**

Cecil County  
Zoning Ordinance

**APPENDIX C**  
**Information Required with Applications for Growth Allocation**

Element/Item # and Description	Growth Allocation Plan
<b>I. Conceptual Site Development Plan</b>	
1. Vicinity map with project site clearly identified	<b>X</b>
2. Project boundary and limits of disturbance	<b>X</b>
3. A site plan with a scale provided at 1"=10', 1"=20', 1"=30', 1"=40', 1"=50', 1"=60', or 1"=100'	<b>X</b>
4. Orientation; North Arrow	<b>X</b>
5. Project name and location; name & address of applicant	<b>X</b>
6. Existing parcel and tract boundaries or lot lines, including a Critical Area map showing land proposed to be changed	<b>X</b>
7. Critical Area boundary, including current and proposed land classifications and the land classifications and zoning of all lots or parcels considered adjacent to the project site, confirmed by a signed and sealed survey	<b>X</b>
8. Development area boundaries, including any proposed development envelopes	<b>X</b>
9. One hundred year floodplain boundary	<b>X</b>
10. Tax map information that includes, as applicable: Tax Map Number, Block Number, Parcel Number, and Lot Number	<b>X</b>
<b>II. Environmental Features Map</b>	
11. Field-run topography	<b>X</b>
12. Vegetative cover information by acres or square footage, including field determination of existing forest and developed woodland cover, location of proposed forest and developed woodland clearing, and location of proposed afforestation and reforestation areas when applicable	<b>X</b>
13. Soil features, including soil type, area of hydric soils, area of highly erodible soils, and where each soil type is located	<b>X</b>
14. Field determinations of intermittent and perennial tributary streams	<b>X</b>
15. A delineation of the minimum 110- or 200-foot Buffer from the mean high water line of tidal waters or landward edge of tidal wetlands & tributary streams	<b>X</b>
16. Expanded Buffer to include contiguous slopes 15% or greater, hydric soils, highly erodible soils, and nontidal wetlands, as required within COMAR 27.01.09.01	<b>X</b>

**APPENDIX C**  
**Information Required with Applications for Growth Allocation**

Element/Item # and Description	Growth Allocation Plan
17. The location and extent of the 300-foot setback when converting from a Resource Conservation Area to either a Limited Development Area or an Intensely Developed Area	<b>X</b>
18. Field delineated location & description of the extent of nontidal wetlands & the 25-foot buffer from nontidal wetlands that is less than two years old unless the Commission determines an otherwise acceptable period of time	<b>X</b>
19. Field delineated location & description of the extent of tidal wetlands that is less than two years old, including delineation of State versus private tidal wetland boundaries unless the Commission determines an otherwise acceptable period of time	<b>X</b>
20. Plant & Wildlife Habitat Areas including colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forest, forest interior dwelling bird habitat, areas of State or local significance, and natural heritage areas	<b>X</b>
21. Habitat of Threatened and Endangered Species, including species in need of conservation	<b>X</b>
22. Anadromous fish propagation waters	<b>X</b>
23. Existing and proposed area of lot coverage, including identification of buildings, roads, parking lots, and all other areas contributing to lot coverage	<b>X</b>
24. Other proposed development features, including outlots, stormdrains & outfalls, utility connections, septic systems, stormwater management systems, shore erosion control measures, and piers	<b>X</b>
25. Location(s) of a path or walkway, including those exempt from lot coverage requirements	<b>X</b>
26. Existing and proposed mitigation areas that are required because of an impact on forest, developed woodland, wetland, Buffer, or other habitat protection areas	<b>X</b>
27. When present on the property, identification and location of agricultural lands, surface mining sites, natural parks, dredging activity and dredge material disposal areas	<b>X</b>
28. When present, the boundary and area of any existing easements, as well as information identifying the easement holder, and any restriction on development as a result of the easement	<b>X</b>
<b>III. Environmental Report (demonstrating that the project has been designed and can be constructed so as to comply with all requirements of the proposed Critical Area classification, including the lot coverage limits in the Limited Development Area and Resource Conservation Area and the 10% pollutant reduction rule in the Intensely Developed Area)</b>	
29. Project description	<b>X</b>
30. Subdivision history since December 1, 1985 in the Chesapeake Bay Critical Area	<b>X</b>

**APPENDIX C**  
**Information Required with Applications for Growth Allocation**

Element/Item # and Description	Growth Allocation Plan
31. A brief narrative describing the project type, including industrial, residential, commercial, institutional, or port-related, as it relates to the need to change the Critical Area classification, and which describes how the growth allocation supports the County’s overall planning goals, including reference to relevant sections of the adopted Comprehensive Plan, adopted Zoning Ordinance and Master Water and Sewer Plan	<b>X</b>
32. Total acreage in the Critical Area	<b>X</b>
33. Total acreage of proposed Growth Allocation	<b>X</b>
34. Total forest, developed woodland, and vegetated area proposed to be cleared	<b>X</b>
35. Method and description of proposed stormwater quality management, including all qualitative and quantitative measures	<b>X</b>
36. In the Intensely Developed Area, 10% pollutant reduction rule compliance, including worksheets and all supporting documentation	<b>X</b>
37. Soil erosion and sediment control measures and implementation strategy	<b>X</b>
38. In the Limited Development Area, existing and proposed lot coverage information calculated by square feet of coverage for each lot and for the site as a whole	<b>X</b>
39. Mitigation required for clearing of forest area, developed woodland, or vegetation in accordance with the requirements of COMAR 27.01.05 and with the County’s Critical Area Program	<b>X</b>
40. When applicable, the 15% afforested area in the Limited Development Area and the Resource Conservation Area in the Critical Area	<b>X</b>
41. Zoning district classification	<b>X</b>
42. A Buffer Management Plan, if: (a) The Buffer is required to be established on a development site, (b) A proposed development activity impacts the Buffer, or (c) The removal of trees or vegetation, including invasive species management, in the Buffer is proposed	<b>X</b> <b>X</b> <b>X</b>
43. A Habitat Protection Plan if the proposed development will impact an identified Habitat Protection Area (see details in Element V, below)	<b>X</b>
<b>IV. Buffer Management Plan (if applicable, per item # 42, above)</b>	
44. A proposed planting plan showing the plantings required to establish the Buffer or as mitigation for proposed impacts including the size, species, and location of all proposed plantings	<b>X</b>

**APPENDIX C**  
**Information Required with Applications for Growth Allocation**

Element/Item # and Description	Growth Allocation Plan
45. The location and number of square feet of existing vegetation within the Buffer	<b>X</b>
46. A general description of the species composition	<b>X</b>
47. The location and number of square feet of any vegetation in the Buffer that is proposed to be removed	<b>X</b>
48. The location and number of square feet of disturbance in the Buffer associated with a development activity	<b>X</b>
49. Any written descriptions, specifications, and protective agreements necessary to ensure implementation of the Buffer Management Plan	<b>X</b>
50. Bonding or other financial sureties to ensure long-term protection and maintenance of vegetation in the Buffer	<b>X</b>
<b>V. Habitat Protection Plan (if present and applicable). Notwithstanding the details set forth herein, the Habitat Protection Plan shall be consistent with the requirements of §197 of this Zoning Ordinance.</b>	
51. If required, any Habitat Protection Plan must provide for the protection and conservation of any identified habitat or species as set forth in COMAR 27.01.09 on the project site	<b>X</b>
52. If required, any Habitat Protection Plan must be based on consultation with the Department of Natural Resources & other appropriate federal & state agencies, & it must include all protective measures appropriate to provide for long-term conservation	<b>X</b>
53. If required, any Habitat Protection Plan must include a site-specific implementation plan	<b>X</b>
54. If required, any Habitat Protection Plan must include long-term protective agreements, including easements, and ensure that the full implementation of the proposed protective measures can be achieved on the project site	<b>X</b>
<b>VI. For the following resources, as appropriate for the project site &amp; each government agency, a preliminary review &amp; comment from the Maryland Department of Natural Resources, Maryland Historical Trust &amp; the U.S. Army Corps of Engineers</b>	
55. Rare, threatened and endangered species	<b>X</b>
56. Plant and wildlife habitat	<b>X</b>
57. Riparian forests	<b>X</b>
58. Forest interior dwelling birds	<b>X</b>

**APPENDIX C**  
**Information Required with Applications for Growth Allocation**

Element/Item # and Description	Growth Allocation Plan
59. Natural Heritage Areas	X
60. Colonial water birds	X
61. Submerged aquatic vegetation	X
62. Anadromous fish and their propagation waters	X
63. Other aquatic species	X
64. Historic waterfowl staging and concentration areas	X
65. Tidal and nontidal wetlands	X
66. Historical and cultural resources	X
<b>VII. Growth Allocation Standards &amp; Factors to be Considered</b>	
67. Information and documentation relevant to the County’s determination that the project meets the standards and factors listed under Natural Resources Article §8-1808.1 (c)(1), Annotated Code of Maryland	X
68. All information and documentation that addresses the factors to be considered by the Critical Area Commission under Natural Resources Article §8-1808.1 (c)(3), Annotated Code of Maryland	X
<b>VII. Additional Information</b>	
69. A map that shows the land area for which the County <sup>1</sup> proposes a change of Critical Area land classification, & verification that the amount of proposed growth allocation indicated on this map is accurate & equal to the amount of growth allocation to be deducted from the County’s existing total allotment of growth allocation	X

<sup>1</sup> Under the law, technically, the County is the “applicant” in any Growth Allocation proposal.

**Appendix D**  
**ALPHABETICAL LISTING OF USES**

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
13.01.000	Accessory Structures and Uses
10.03.000	Adult Bookstore and/or Entertainment Center (Section 126)
1.01.000	Agricultural operations, farming
1.01.100	Agriculture
1.01.200	Agricultural Equipment Sales (Section 57)
1.01.110	Agricultural Product Sales (Section 158)
7.02.000	Airport (Section 111)
10.04.000	Alcoholic Beverage Sales/Liquor Stores (Section 127)
5.09.000	Amusement Parks (Section 105)
9.09.000	Animal Hospital (Section 123)
1.01.300	Animal Husbandry (Section 58)
10.05.000	Antique Shops (Section 128)
1.02.000	Aquaculture
10.06.000	Auction Houses (Section 129)
5.07.000	Automobile and Motorcycle Racing Tracks (Section 103)
12.09.000	Automobile Parking Garages or Parking Lots, not accessory to a permitted use
9.04.000	Banks, Drive-In (Section 120)
3.07.200	Bed and Breakfast (Section 84)
12.02.000	Blacksmith Shop
3.07.100	Boarding Houses (Section 83)
12.04.000	Bottling Facility

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
12.07.000	Brick or Block Manufacturing
7.05.200	Bus Depot
9.05.000	Business Services
11.10.000	Bus Storage (Section 142)
5.05.000	Campgrounds, Recreational Vehicle Parks (Section 101)
11.11.000	Car Wash
4.06.100	Cemeteries
4.06.110	Cemeteries - located on church grounds
4.06.120	Cemeteries - not located on church grounds (Section 93)
4.06.000	Cemetery, Crematorium
5.01.500	Coliseums, Stadiums (Section 99)
10.01.000	Commercial Retail Establishments - floor area <5,000 square feet (Section 124)
10.02.000	Commercial Retail Establishments - floor area >5,000 square feet (Section 125)
9.01.000	Commercial Service Establishments - floor area <5,000 square feet (Section 116)
9.02.000	Commercial Service establishments - floor area >5,000 square feet per parcel (Section 117)
1.01.600	Commercial Stables (Section 61)
8.04.000	Communication Tower (Section 115)
12.08.000	Concrete and Asphalt Plants (Section 146)
3.07.300	Conference Center (Section 85)
9.07.000	Construction Business or Supplies



<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
4.06.200	Crematorium (Section 94)
3.06.200	Day Care
3.06.210	Day Care Center, Family
3.06.220	Day Care Center, Group (Section 80)
3.03.200	Dwelling - Apartment (Section 76)
3.03.300	Dwelling - Apartment Conversion (Section 77)
3.02.100	Dwelling - Duplex (Section 72)
3.01.500	Dwelling - Guest House on parcels greater than 50 acres
3.01.600	Dwelling - Guest House on parcels less than 50 acres
3.01.200	Dwelling - Manufactured Home - Double-wide (Section 70)
3.01.300	Dwelling - Manufactured Home - Single-wide (Section 71)
3.03.000	Dwelling - Multi-Family
3.02.200	Dwelling - Semi-Detached (Section 73)
3.01.000	Dwelling - Single-Family Detached
3.01.100	Dwelling - Detached (Section 69)
3.01.400	Dwelling - Tenant House
3.03.100	Dwelling - Townhouse (Section 75)
3.02.300	Dwelling with Accessory Apartment (Section 74)
8.02.000	Electric Power, Gas Transmission and Telecommunications Buildings and Structures (Section 114)
1.06.000	Farmers Markets (Section 63)
5.06.000	Festivals or Events (Section 102)

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
6.02.000	Fire Station with Assembly Hall (Section 110)
6.01.000	Fire Stations without Assembly Hall
1.03.000	Fisheries
1.04.000	Forestry
9.08.000	Funeral Parlors (Section 122)
5.08.000	Go Cart Track (Section 104)
5.11.000	Golf Driving Range - not part of a golf course (Section 107)
5.12.000	Golf-Miniature
5.10.000	Golf Courses – Publicly owned, privately owned, and public and privately owned golf courses approved as part of some residential development (Section 106)
1.09.000	Greenhouse - on-premise sales permitted (Section 65)
3.06.100	Group Homes
3.06.110	Group Homes - less than 9 people
3.06.120	Group Homes - 9 through 16 people
3.06.300	Halfway House (Section 81)
12.15.300	Hazardous Waste Recycling Facility (Section 151)
12.15.400	Hazardous Waste Incineration Facility (Section 152)
9.06.000	Health Club (Section 121)
12.01.100	Heavy Industry
7.03.000	Helicopter Facilities (Section 112)
3.05.000	Home Occupation (Section 79)
3.06.000	Homes emphasizing special services, treatment, or supervision and Residential Elderly Care

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
4.05.100	Hospitals (Section 91)
3.08.000	Hotel (Section 86)
4.02.000	House of Worship
5.01.000	Indoor recreation (Section 95)
5.01.300	Indoor Rifle and Pistol Ranges (Section 97)
10.06.100	Industrial Auction House
4.05.000	Institutional residence or care facilities
1.10.000	Kennel, Commercial (Section 66)
4.03.000	Libraries, Museums
12.01.200	Light Industry (Section 143)
1.07.000	Livestock Market (Section 64)
3.04.000	Manufactured Home Park (Section 78)
10.08.000	Manufactured Home Sales
12.01.000	Manufacturing
5.04.000	Marina
2.00.100	Mineral Extraction (Section 67)
2.00.200	Mineral Processing (Section 68)
12.12.000	Mini-Storage (Section 147)
3.07.000	Miscellaneous rooms for rent situations
3.09.000	Motel (Section 87)
11.02.000	Motor Vehicle Filling Station (Section 135)
11.03.000	Motor Vehicle Rental (Section 136)
11.04.000	Motor Vehicle Repair and Maintenance (Section 137)

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
11.01.000	Motor Vehicle Sales
8.01.000	Neighborhood Essential Service (Section 160)
12.13.000	Non-Automotive Fuel Sales (Section 148)
4.05.200	Nursing Care Facility (Section 92)
1.08.000	Nursery
9.03.100	Office Building, Class A (Section 118)
9.03.200	Office Building, Class B
9.03.300	Office Building, Class C (Section 119)
9.03.000	Office Buildings
5.01.400	Off-track Betting (Section 98)
10.09.000	Open-air Markets
8.03.000	Overhead Electric Power Transmission
7.05.300	Park and Ride Facilities
10.07.000	Pet Store
12.15.200	Petroleum Products Recycling Facility (Section 150)
4.04.000	Private Clubs (Section 90)
6.04.000	Police Station
7.01.000	Post Office
7.00.100	Post Office - Local
7.00.200	Post Office - Regional
12.16.000	Power Generating Facilities (Section 156)
7.04.000	Prison (Section 113)
5.02.000	Privately-Owned Outdoor Recreation Facilities (Section 100)

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
5.03.000	Privately owned outdoor swim or tennis clubs approved as part of a residential development
8.05.000	Public Utilities
12.15.100	Recycling Facility
6.03.000	Rescue Squad, Ambulance Service
12.14.000	Research and Development Facilities (Section 149)
10.12.200	Restaurant, Carry-out, Delivery (Section 132)
10.12.300	Restaurant, Drive-in or Fast Food (Section 133)
10.12.100	Restaurant, Standard (Section 131)
10.12.000	Restaurants
3.06.400	Retirement Housing Complex (Section 82)
5.13.000	Rifle and Pistol Range, War Games, Archery Ranges or Other Recreation Using Weapons, outdoor (Section 108)
1.01.500	Roadside Stand (Section 60)
12.15.500	Rubble Landfill (Section 153)
11.05.000	Salvage Yard (Section 138)
12.15.600	Sanitary Landfill (Section 154)
12.05.000	Saw Mills (Section 144)
4.01.000	Schools, Public
4.01.100	Schools, Private (Section 88)
10.11.000	Shopping Center (Section 130)
1.01.400	Slaughterhouses (Section 59)
12.15.700	Sludge Handling (Section 155)
5.14.000	Swimming Pool, Commercial (Section 109)

<b><u>Permitted Use Chart Designation</u></b>	<b><u>Permissible Use Description (reference to Article V, Specific Supplementary Regulations)</u></b>
11.08.000	Storage Trailer and Container (Section 159)
11.09.000	Storage Trailer Facility (Section 141)
10.12.400	Tavern (Section 134)
5.01.200	Theater - Drive-in (Section 96)
5.01.100	Theater - Indoor
1.05.000	Topsoil, Mulch, and/or Aggregate Sales (Section 62)
11.06.000	Towing Service (Section 139)
4.01.200	Trade or Vocational Schools, Private (Section 89)
7.05.100	Train Station
7.05.000	Transportation
11.13.000	Travel Plaza
11.07.000	Travel Trailers (Section 140)
11.14.000	Truck Stop
12.10.000	Truck Terminal
11.12.000	Truck Wash
12.11.000	Warehouse
12.15.000	Waste Management Uses
12.03.000	Welding Shops, Ornamental Iron Works, Machine Shops
10.10.000	Wholesale Sales and Establishments
12.06.000	Winery (Section 145)
13.02.000	Zoological Gardens

## Appendix E

### Buffer Management Plans: Planting Plan and Landscape Schedule Steps

**1. Determine Establishment or Mitigation or Combination**

If disturbance in the Buffer requires mitigation, then go to step 2. If all disturbance is outside the Buffer, then only establishment is needed. Go to step 5.

**2. Determine Required Mitigation Area for Disturbance**

Calculate area disturbed in the Buffer. Multiply by the mitigation ratio in Table 1 for square footage.

**Table 1: Mitigation Ratios for Development Activities**

Activity	Mitigation Ratio
Shore erosion control	1:1
Riparian water access	2:1
Development or redevelopment of water-dependent facilities	2:1
Variance	3:1
Violation	4:1

**3. Determine Required Mitigation Area for Clearing Trees**

Calculate total diameter of all trees removed that are two (2) inches or more in diameter. (A tree's diameter = the circumference divided by 3.142.) Multiply number of inches by one hundred (100) square feet.

**4. Determine Total Mitigation**

Add Step 2 and Step 3 results for total mitigation requirement and determine if there is an establishment requirement associated with development outside the Buffer. If establishment is required, then proceed to Step 5. If no establishment is required, then proceed to Step 8 to develop or review the planting plan.

**5. Determine Required Establishment Area for Development**

Identify development category. Determine when the lot was created (possible grandfathered status). Use Table 2 to determine how much of the Buffer must be established.

**Table 2: Establishment Categories and Requirements**

Development Category	Before 7/5/88	After 7/5/88
New development on vacant lot	Establishment based on total lot coverage	Full establishment
New subdivision or new lot	Full establishment	
New lot with an existing dwelling unit	Establishment based on total lot coverage	
Conversion of land use on a parcel or lot to another land use	Full establishment	
Addition or accessory structure	Establishment based on net increase in lot coverage	
Substantial alteration	Establishment based on total lot coverage	

## 6. Adjust Full Establishment for Existing Forest Cover

If the project requires full establishment of the Buffer, and there is existing forest vegetation on the site, use the site plan or aerial imagery to determine the percentage of the Buffer that is forested and reduce the requirement by this percentage. For example, if the entire area of the Buffer is two thousand (2,000) square feet, and the existing tree line indicates that approximately ten (10) percent of the Buffer is forested, then the required Buffer establishment would be one thousand eight hundred (1,800) square feet.

## 7. Determine Eligibility for Natural Regeneration

If the project requires Buffer establishment greater than one acre, then fifty (50) percent of the areas required can be established through natural regeneration as long as it is within fifty (50) feet of mature forest and a supplemental planting plan and financial assurance is provided. If eligible, identify the natural regeneration area on the plan and reduce the planting requirement by the natural regeneration square footage,

## 8. Determine Stocking

Use Table 3 to determine how much of the area to be planted must be landscape stock and what area may be planted using “flexible stocking.”

**Table 3: Stocking Options**

Requirement	Amount	Options
Establishment	Less than ¼ acre	Landscape stock
	¼ acre up to or equal to 1 acre	Landscape stock = 50% Minimum Flexible stocking = Remainder
	Greater than 1 acre up to or equal to 5 acres	Landscape stock = 25% Minimum Flexible stocking = Remainder
	Greater than 5 acres	Landscape stock = 10% Minimum Flexible stocking = Remainder
Mitigation	Less than 1 acre	Landscape stock
	Equal to or greater than 1 acre	Landscape stock = 50% Minimum Flexible stocking = Remainder

## 9. Determine if Planting Clusters can be Used and Calculate Quantities

If the planting requirement for either Buffer establishment or mitigation is less than one (1) acre, then planting clusters may be used. Planting clusters provide bonus credit over individual trees and shrubs because the “cluster design” maximizes the water quality and habitat benefits on smaller sites. Planting clusters are considered “landscape stock.” Using Table 4, choose a cluster type or types and divide the planting square footage by three hundred (300) or three hundred fifty (350) to determine the number of clusters. On the planting plan, the plants in each cluster must be grouped together in a mulched bed.



**Table 4: Cluster Options**

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (SF)	Maximum Percent of Credit
Planting Cluster 1	1 Canopy Tree and 3 Large Shrubs	300	N/A
Planting Cluster 1	1 Canopy Tree and 6 Small Shrubs	300	N/A
Planting Cluster 2	2 Understory Trees and 3 Large Shrubs	350	N/A
Planting Cluster 2	2 Understory Trees and 6 Small Shrubs	350	N/A

## 10. Determine Landscape Stock Type, Size, and Quantity

Based on the results in Step 8 and Step 9, determine the remaining square footage of planting required using landscape stock. Use Table 5 to determine the square footage credits for canopy trees, understory trees, large shrubs, small shrubs, and herbaceous perennials. Herbaceous perennials can only be used for planting requirements that are less than one acre. Use the “Maximum Percent of Credit” to determine what square footage of the required planting can be herbaceous perennials, small shrubs, or large shrubs as desired by the landowner. Divide the square footage by the maximum credit allowed to determine the number of plants of each type that are needed. Because trees maximize water quality and habitat benefits, there is no maximum on the number of canopy trees and understory trees. The area around the plantings should be mulched or established with other ground cover that will ensure long-term survivability and reduce the threat of invasive species. If full establishment is required, plantings should be evenly distributed throughout the Buffer.

**Table 5: Plant Credits**

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (SF)	Maximum Percent of Credit
Canopy Tree	2-inch caliper and 8 feet high	200	N/A
Canopy Tree	2-inch caliper and 6 feet high	100	N/A
Understory Tree	1-inch caliper and 6 feet high	75	N/A
Large Shrub	1 gallon and 4 feet high	50	30
Small Shrub	1 gallon and 18 inches high	25	20
Herbaceous Perennial	1 quart	2	10

## 11. Determine “Flexible Stocking” Size and Quantity

If the results of Step 8 allow flexible stocking, then use Table 6 to determine the number of trees that must be planted depending on whether they are seedlings or whips, small container trees, or larger container trees. (The square footage number will need to be divided by 43,560 and then multiplied by the number of stems per acre.) Only tree species can be used. It is important to note that higher quantities are required because survival has been adjusted to address normal mortality. Monitoring and financial assurance are mandatory.

**Table 6: Flexible Stocking**

<b>Stock Size (Trees Only)</b>	<b>Required Number of Stems Per Acre</b>	<b>Survivability Requirement</b>	<b>Financial Assurance Period After Planting</b>
Bare root seedling or whip	700	50 percent	5 years
½-inch to 1-inch container-grown trees	450	75 percent	2 years
More than 1-inch container-grown trees	350	90 percent	2 years

## **12. Evaluate Species**

All species used should be species native to the Chesapeake Bay Watershed. All species in the U. S. Fish and Wildlife Service publication entitled *Native Plants for Wildlife Habitat and Conservation Landscaping – Chesapeake Bay Watershed* are acceptable species that may be used to meet Buffer mitigation or establishment requirements. The publication is available at <http://www.nps.gov/plants/pubs/chesapeake/>. The classifications as trees, shrubs, and herbaceous plants (including ferns, grasses and grass-like plants, emergents, and vines) used in the publication will be used to determine plant type. Heights of the various species will be used to determine which species are understory or canopy trees and which species are large or small shrubs. These classifications are based on mature size.

## **13. Ensure Species Diversity**

It is generally advisable to plant a variety of species within the types by using a few different species of canopy trees, understory trees, large shrubs, small shrubs, and herbaceous perennials. Identifying existing species on or around the project site can provide a general indication of those that will adapt well. For Major Buffer Management Plans, shrubs may not exceed fifty (50) percent of the planting requirement, and no single species may exceed twenty (20) percent of the total planting requirement.